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CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1839

Introduced by Assembly Members Gatto and Bocanegra

(Principal coauthors: Assembly Members Allen, Bloom, Bonta, Brown, Ian Calderon, Campos, Dababneh, Garcia, Gorell, Hall, Muratsuchi, V. Manuel Pérez, Rendon, and Wilk)

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(Coauthors: Senators Berryhill, Correa, Gaines, Galgiani, Huff, Knight, Liu, Morrell, Pavley, Torres, Walters, and Wyland)

February 18, 2014

An act to amend ~~Sections 17053.85, 23036, and 23685~~ *Section 23036* of, to add Sections 38.9, 17053.95, and 23695 to, and to repeal and

amend Section 6902.5 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1839, as amended, Gatto. Income taxes: qualified motion pictures.

The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws, including a credit against those taxes for taxable years beginning on or after January 1, 2011, in an amount equal to an applicable percentage of either 20% or 25%, respectively, of the qualified expenditures, as defined, attributable to the production of a qualified motion picture in California, or, where the qualified motion picture is a television series that relocated to California or is an independent film, as provided. Existing law imposes specified duties on the California Film Commission related to the administration of the credits, including a requirement to allocate the tax credits until July 1, 2017, and limits the aggregate amount of credits that may be allocated to qualified motion pictures in any fiscal year to \$100,000,000 through the 2016–17 fiscal year. Existing law, for taxable years beginning on or after January 1, 2011, in lieu of the credits authorized under the Personal Income Tax Law and the Corporation Tax Law for qualified motion pictures described above, also allows a credit against qualified state sales and use taxes, as provided.

Existing law provides for a tentative minimum tax and further provides that, except for specified credits, no other credit shall reduce the tax imposed below the tentative minimum tax.

~~For those existing credits, this bill would allow an additional \$100,000,000 of credits to be allocated over the 2015–16 and 2016–17 fiscal years.~~

This bill would also establish similar credits under the Personal Income Tax Law and the Corporation Tax Law for taxable years beginning on or after January 1, 2016, to be allocated by the California Film Commission on or after January 1, 2015, and before July 1, 2019–2020. This bill would, as compared to the existing tax credits, extend the scope of the credits for a qualified motion picture to the applicable percentage of qualified expenditures up to \$100,000,000, would extend the credit to qualified expenditures for television pilot episodes, qualified expenditures for qualified visual effects, and qualified expenditures relating to music scoring and music track recording by musicians, would

provide limited credit allocation priority for specified television series, and would determine an applicable percentage of 25% or 20% for qualified expenditures for television series relocating to California based on the number of years the series has received the credit since relocation to California and where in California photography occurs *expenditures, with an additional credit amount available, as specified*. This bill would limit the aggregate amount of these new credits to be allocated in each fiscal year *to up to \$400 \$330* million, and would, subject to a computation and ranking of applicants based on the jobs ratio, as defined, require the California Film Commission to allocate credit amounts subject to specified categories of qualified motion pictures. This bill would, for taxable years beginning on or after January 1, 2016, in lieu of the credits authorized under the Personal Income Tax Law and the Corporation Tax Law for qualified motion pictures described above, allow a credit against qualified state sales and use taxes, as provided. This bill would also require the Legislative Analyst's Office to prepare reports related to the effectiveness and administration of the qualified motion picture credit under the Sales and Use Tax Law, the Personal Income Tax Law, and the Corporation Tax Law.

This bill would, for taxable years, beginning on or after January 1, 2016, additionally allow the credit under the Corporation Tax Law for qualified expenditures for the production of qualified motion pictures to reduce the tentative minimum tax.

This bill would also make findings and declarations related to the entertainment industry, and would urge the United States ~~Congress~~ *Department of Commerce* and the International Trade Commission to investigate and impose sanctions on specified motion picture productions and elements of production to combat unfair and illegal competition.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

The bill would state that its provisions are severable.

This bill would incorporate additional changes in Section 23036 of the Revenue and Taxation Code, proposed by AB 2754, to be operative only if AB 2754 and this bill are both chaptered and become effective on or before January 1, 2015, and this bill is chaptered last.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) There has been no greater ambassador for the State of
4 California than its artistic output, inspiring generations to dream
5 about the bounty of this golden state, driving a modern gold rush
6 of those who came here to be a part of that California dream, as
7 they had done during the Gold Rush and the Dust Bowl migrations
8 during previous generations.

9 (b) California's artistic output is manifested in the evolution of
10 Hollywood, a locale internationally celebrated as the home of the
11 entertainment industry, having established itself as a filmmaking
12 locale by the early 1900s.

13 (c) Hollywood's cultural output is a primary reason why
14 California emerged as a thought leader in the United States, and
15 around the world.

16 (d) The benefits of a healthy entertainment industry manifest
17 themselves in healthy employment markets, healthy tourism,
18 healthy local economies, and healthy family units.

19 (e) However, since 1997, other states and nations have sought
20 to lure the economic activity, tax revenue, workforce, and renown
21 that are concomitant to the industry.

22 (f) California's entertainment workforce has been steadily
23 eroding for more than a decade, forcing thousands of Californians
24 to temporarily or permanently relocate, leaving their families and
25 communities behind.

26 (g) The exodus of the film industry has hurt related businesses
27 that provide the motion picture industry with specialized services,
28 equipment, and facilities.

29 (h) The visual effects industry is a highly qualified and highly
30 skilled sector of the entertainment industry that is becoming
31 increasingly significant as films become more technical in nature.

32 (i) In search of subsidy programs that specifically target special
33 effects, visual effects, and virtual photography, many
34 California-based companies have opened international offices to
35 compete for tax incentives offered in those jurisdictions.

1 (j) California, and the United States as a whole, is facing
2 growing competition from international governments that have
3 implemented aggressive tax rebates and initiatives that have lured
4 tens of thousands of jobs associated with film production,
5 postproduction, visual effects, and music scoring abroad.

6 (k) The federal International Trade Commission exercises broad
7 authority to investigate the effects of subsidized imports on
8 domestic industries, to conduct global safeguard investigations,
9 and to protect domestic industries from unfair acts in importation.

10 (l) It is the intent of the Legislature to urge the United States
11 ~~Congress~~ *Department of Commerce* and the International Trade
12 Commission to investigate aggressively and impose sanctions,
13 including tariffs, on productions and elements of production,
14 including visual effects, virtual photography, and music scoring,
15 that are digitally distributed and electronically transmitted, in its
16 definition of “articles” protected by the Tariff Act, to combat unfair
17 and illegal competition ~~from international parties~~ *caused by*
18 *international subsidies to these articles of commerce, and to urge*
19 *the United States Congress to take other appropriate actions.*

20 (m) A central focus of this Legislature has been developing
21 policies to help California climb out of the great recession and put
22 families back to work. In order to halt the steady outward march
23 of jobs and creativity, California must have a robust, smart, and
24 efficient tax incentive program that guarantees job growth and
25 economic expansion, coupled with strong accountability and
26 transparency measures. Towards this end, California’s tax credits
27 for film and television must be reformed to ensure that California’s
28 taxpayers receive the maximum possible economic return on their
29 investment. It is the intent of this legislation to replace the
30 program’s current arbitrary lottery system with a competitive and
31 accountable system that ranks tax credit applications according to
32 net new jobs created and overall positive and sustained economic
33 impacts for the entire state.

34 SEC. 2. Section 38.9 is added to the Revenue and Taxation
35 Code, to read:

36 38.9. (a) On or before July 1, 2019, the Legislative Analyst’s
37 Office shall provide to the Assembly Committee on Revenue and
38 Taxation, the Senate Committee on Governance and Finance, and
39 the public a report evaluating the economic effects and
40 administration of the tax credits allowed pursuant to Sections

1 6902.5, as amended by the act adding this section, 17053.95, and
2 23695. In researching the reports, the Legislative Analyst's Office
3 may do all of the following:

4 (1) Request and receive all information provided to the
5 California Film Commission pursuant to subdivision (g) of Sections
6 17053.95 and 23695.

7 (2) Request and receive all information provided to the Franchise
8 Tax Board relating to the sale or assignment of credits pursuant
9 to subdivision (c) of Sections 17053.95 and 23695.

10 (3) Request and receive all information provided to the board
11 pursuant to subdivisions (c) and (g) of Section 6902.5, as amended
12 by the act adding this section.

13 (b) The California Film Commission, the board, the Franchise
14 Tax Board, the Employment Development Department, and all
15 other relevant state agencies shall provide additional information,
16 as specified by the Legislative Analyst's Office, as needed to
17 research the reports required by this section.

18 (c) (1) The information received by the Legislative Analyst's
19 Office pursuant to this section shall be considered confidential
20 taxpayer information subject to Sections 7056, 7056.5, and 19542
21 of this code and Section 1094 of the Unemployment Insurance
22 Code, and shall be subject to the appropriate confidentiality
23 requirements of the participating state agency.

24 (2) The Legislative Analyst's Office may publish statistics in
25 conjunction with the reports required by this section that are
26 derived from information provided to the Legislative Analyst's
27 Office pursuant to this section, if the published statistics are
28 classified to prevent the identification of particular taxpayers,
29 reports, and tax returns and the publication of the percentage of
30 dividends paid by a corporation that is deductible by the recipient
31 under Part 11 (commencing with Section 23001) of Division 2.

32 SEC. 3. Section 6902.5 of the Revenue and Taxation Code, as
33 added by Section 1 of Chapter 10 of the Third Extraordinary
34 Session of the Statutes of 2009, is repealed.

35 SEC. 4. Section 6902.5 of the Revenue and Taxation Code, as
36 added by Section 1 of Chapter 17 of the Third Extraordinary
37 Session of the Statutes of 2009, is amended to read:

38 6902.5. (a) For the purposes of this section:

1 (1) “Qualified taxpayer” means a person who is a qualified
2 taxpayer within the meaning of paragraph (17) of subdivision (b)
3 of Section 17053.85, 17053.95, 23685, or 23695.

4 (2) “Affiliate” means a qualified taxpayer’s affiliated corporation
5 that has been assigned any portion of the credit amount by the
6 qualified taxpayer pursuant to subdivision (c) of Section 23685 or
7 subdivision (c) of Section 23695.

8 (3) “Credit amount” means an amount equal to the tax credit
9 amount that would otherwise be allowed to a qualified taxpayer
10 pursuant to Section 17053.85, 17053.95, 23685, or 23695 but for
11 the election made pursuant to this section.

12 (4) “Production period” means the production period as defined
13 in paragraph (12) of subdivision (b) of Section 17053.85, 17053.95,
14 23685, or 23695.

15 (5) (A) “Qualified sales and use taxes” means any state sales
16 and use taxes imposed by Part 1 (commencing with Section 6001),
17 on the operative date of the act adding this section.

18 (B) Notwithstanding subparagraph (A), “qualified sales and use
19 taxes” does not mean taxes imposed by Section 6051.2, 6051.5,
20 6201.2, 6201.5, Part 1.5 (commencing with Section 7200), Part
21 1.6 (commencing with Section 7251), or Section 35 of Article XIII
22 of the California Constitution.

23 (b) (1) A qualified taxpayer may, in lieu of claiming the credit
24 allowed by Section 17053.85, 17053.95, 23685, or 23695 make
25 an irrevocable election to apply the credit amount against qualified
26 sales and use taxes imposed on the qualified taxpayer in accordance
27 with this section.

28 (2) An affiliate may, in lieu of claiming the assigned portion of
29 the credit allowed by Section 23685 or 23695, make an irrevocable
30 election to apply the assigned portion of the credit amount against
31 qualified sales and use taxes imposed on the affiliate in accordance
32 with this section.

33 (c) (1) A qualified taxpayer or affiliate shall submit to the board
34 an irrevocable election, in a form as prescribed by the board, which
35 shall include, but not be limited to, the following information:

36 (A) Representation that the claimant is a qualified taxpayer or
37 an affiliate.

38 (B) Statement of the dates on which the production period began
39 and ended.

1 (C) The credit amount, and if an affiliate, the portion of the
2 credit amount assigned to it and documentation supporting the
3 assignment of that portion of the credit amount.

4 (D) The amount of qualified sales and use taxes the claimant
5 remitted to the board during the period commencing on the first
6 day of the calendar quarter commencing immediately before the
7 beginning of the production period, and ending on the date the
8 claimant was required to file its most recent sales and use tax return
9 with the board.

10 (E) A copy of the credit certificate issued pursuant to
11 subparagraph (C) of paragraph (2) of subdivision (g) of Section
12 17053.85 or 23685 or subparagraph (D) of paragraph (3) of
13 subdivision (g) of Section 17053.95 or 23695.

14 (2) The election shall be filed on or before the date on which
15 the qualified taxpayer or affiliate would first be allowed to claim
16 a credit pursuant to Section 17053.85, 17053.95, 23685, or 23695
17 on its tax return.

18 (d) (1) The claimant may elect to obtain a refund of qualified
19 sales and use taxes paid during the period described in
20 subparagraph (D) of paragraph (1) of subdivision (c). If the
21 claimant elects to obtain a refund of qualified sales and use taxes,
22 the claimant shall file a claim for refund with the irrevocable
23 election described in subdivision (c). The refund amount shall not
24 exceed, for a qualified taxpayer, the credit amount, or for an
25 affiliate, the portion of the credit amount assigned to it.

26 (2) No interest shall be paid on any amount refunded or credited
27 pursuant to paragraph (1).

28 (e) If the claimant does not elect to obtain a refund or in the
29 case where the credit amount, or assigned portion, exceeds the
30 amount of its claim for refund for the qualified sales and use taxes,
31 the claimant may, for the reporting periods in the five years
32 following the last reporting period as described in subparagraph
33 (D) of paragraph (1) of subdivision (c), offset any remaining credit
34 amount, or assigned portion, against the qualified sales and use
35 taxes imposed during those reporting periods.

36 (f) Section 6961 shall apply to any refund, or part thereof, that
37 is erroneously made and any credit, or part thereof, that is
38 erroneously allowed pursuant to this section.

39 (g) The board shall provide an annual listing to the Franchise
40 Tax Board, in a form and manner agreed upon by the board and

1 the Franchise Tax Board, of the qualified taxpayers, or affiliates
2 that have been assigned a portion of the credit allowed under
3 Section 23685 pursuant to subdivision (c) of Section 23685 or
4 Section 23695 pursuant to subdivision (c) of Section 23695, who,
5 during the year, have made an irrevocable election pursuant to this
6 section and the credit amount, or portion of the credit amount,
7 claimed by each qualified taxpayer or affiliate.

8 (h) The board may prescribe rules and regulations for the
9 administration of this section.

10 ~~SEC. 5. Section 17053.85 of the Revenue and Taxation Code~~
11 ~~is amended to read:~~

12 ~~17053.85. (a) (1) For taxable years beginning on or after~~
13 ~~January 1, 2011, there shall be allowed to a qualified taxpayer a~~
14 ~~credit against the “net tax,” as defined in Section 17039, in an~~
15 ~~amount equal to the applicable percentage, as specified in~~
16 ~~paragraph (4), of the qualified expenditures for the production of~~
17 ~~a qualified motion picture in California.~~

18 ~~(2) The credit shall be allowed for the taxable year in which the~~
19 ~~California Film Commission issues the credit certificate pursuant~~
20 ~~to subdivision (g) for the qualified motion picture, and shall be for~~
21 ~~the applicable percentage of all qualified expenditures paid or~~
22 ~~incurred by the qualified taxpayer in all taxable years for that~~
23 ~~qualified motion picture.~~

24 ~~(3) The amount of the credit allowed to a qualified taxpayer~~
25 ~~shall be limited to the amount specified in the credit certificate~~
26 ~~issued to the qualified taxpayer by the California Film Commission~~
27 ~~pursuant to subdivision (g).~~

28 ~~(4) For purposes of paragraphs (1) and (2), the applicable~~
29 ~~percentage shall be:~~

30 ~~(A) Twenty percent of the qualified expenditures attributable~~
31 ~~to the production of a qualified motion picture in California.~~

32 ~~(B) Twenty-five percent of the qualified expenditures~~
33 ~~attributable to the production of a qualified motion picture in~~
34 ~~California where the qualified motion picture is a television series~~
35 ~~that relocated to California or an independent film.~~

36 ~~(b) For purposes of this section:~~

37 ~~(1) “Ancillary product” means any article for sale to the public~~
38 ~~that contains a portion of, or any element of, the qualified motion~~
39 ~~picture.~~

1 (2) “Budget” means an estimate of all expenses paid or incurred
2 during the production period of a qualified motion picture. It shall
3 be the same budget used by the qualified taxpayer and production
4 company for all qualified motion picture purposes.

5 (3) “Clip use” means a use of any portion of a motion picture,
6 other than the qualified motion picture, used in the qualified motion
7 picture.

8 (4) “Credit certificate” means the certificate issued by the
9 California Film Commission pursuant to subparagraph (C) of
10 paragraph (2) of subdivision (g).

11 (5) (A) “Employee fringe benefits” means the amount allowable
12 as a deduction under this part to the qualified taxpayer involved
13 in the production of the qualified motion picture, exclusive of any
14 amounts contributed by employees, for any year during the
15 production period with respect to any of the following:

16 (i) Employer contributions under any pension, profit-sharing,
17 annuity, or similar plan.

18 (ii) Employer-provided coverage under any accident or health
19 plan for employees.

20 (iii) The employer’s cost of life or disability insurance provided
21 to employees.

22 (B) Any amount treated as wages under clause (i) of
23 subparagraph (A) of paragraph (18) shall not be taken into account
24 under this paragraph.

25 (6) “Independent film” means a motion picture with a minimum
26 budget of one million dollars (\$1,000,000) and a maximum budget
27 of ten million dollars (\$10,000,000) that is produced by a company
28 that is not publicly traded and publicly traded companies do not
29 own, directly or indirectly, more than 25 percent of the producing
30 company.

31 (7) “Licensing” means any grant of rights to distribute the
32 qualified motion picture, in whole or in part.

33 (8) “New use” means any use of a motion picture in a medium
34 other than the medium for which it was initially created.

35 (9) (A) “Postproduction” means the final activities in a qualified
36 motion picture’s production, including editing, foley recording,
37 automatic dialogue replacement, sound editing, scoring and music
38 editing, beginning and end credits, negative cutting, negative
39 processing and duplication, the addition of sound and visual effects,
40 soundmixing, film-to-tape transfers, encoding, and color correction.

1 ~~(B) “Postproduction” does not include the manufacture or~~
2 ~~shipping of release prints.~~

3 ~~(10) “Preproduction” means the process of preparation for actual~~
4 ~~physical production which begins after a qualified motion picture~~
5 ~~has received a firm agreement of financial commitment, or is~~
6 ~~greenlit, with, for example, the establishment of a dedicated~~
7 ~~production office, the hiring of key crew members, and includes,~~
8 ~~but is not limited to, activities that include location scouting and~~
9 ~~execution of contracts with vendors of equipment and stage space.~~

10 ~~(11) “Principal photography” means the phase of production~~
11 ~~during which the motion picture is actually shot, as distinguished~~
12 ~~from preproduction and postproduction.~~

13 ~~(12) “Production period” means the period beginning with~~
14 ~~preproduction and ending upon completion of postproduction.~~

15 ~~(13) “Qualified entity” means a personal service corporation as~~
16 ~~defined in Section 269A(b)(1) of the Internal Revenue Code, a~~
17 ~~payroll services corporation, or any entity receiving qualified wages~~
18 ~~with respect to services performed by a qualified individual.~~

19 ~~(14) (A) “Qualified individual” means any individual who~~
20 ~~performs services during the production period in an activity related~~
21 ~~to the production of a qualified motion picture.~~

22 ~~(B) “Qualified individual” shall not include either of the~~
23 ~~following:~~

24 ~~(i) Any individual related to the qualified taxpayer as described~~
25 ~~in subparagraph (A), (B), or (C) of Section 51(i)(1) of the Internal~~
26 ~~Revenue Code.~~

27 ~~(ii) Any 5-percent owner, as defined in Section 416(i)(1)(B) of~~
28 ~~the Internal Revenue Code, of the qualified taxpayer.~~

29 ~~(15) (A) “Qualified motion picture” means a motion picture~~
30 ~~that is produced for distribution to the general public, regardless~~
31 ~~of medium, that is one of the following:~~

32 ~~(i) A feature with a minimum production budget of one million~~
33 ~~dollars (\$1,000,000) and a maximum production budget of~~
34 ~~seventy-five million dollars (\$75,000,000).~~

35 ~~(ii) A movie of the week or miniseries with a minimum~~
36 ~~production budget of five hundred thousand dollars (\$500,000).~~

37 ~~(iii) A new television series produced in California with a~~
38 ~~minimum production budget of one million dollars (\$1,000,000)~~
39 ~~licensed for original distribution on basic cable.~~

40 ~~(iv) An independent film.~~

1 ~~(v) A television series that relocated to California.~~

2 ~~(B) To qualify as a “qualified motion picture,” all of the~~
3 ~~following conditions shall be satisfied:~~

4 ~~(i) At least 75 percent of the production days occur wholly in~~
5 ~~California or 75 percent of the production budget is incurred for~~
6 ~~payment for services performed within the state and the purchase~~
7 ~~or rental of property used within the state.~~

8 ~~(ii) Production of the qualified motion picture is completed~~
9 ~~within 30 months from the date on which the qualified taxpayer’s~~
10 ~~application is approved by the California Film Commission. For~~
11 ~~purposes of this section, a qualified motion picture is “completed”~~
12 ~~when the process of postproduction has been finished.~~

13 ~~(iii) The copyright for the motion picture is registered with the~~
14 ~~United States Copyright Office pursuant to Title 17 of the United~~
15 ~~States Code.~~

16 ~~(iv) Principal photography of the qualified motion picture~~
17 ~~commences after the date on which the application is approved by~~
18 ~~the California Film Commission, but no later than 180 days after~~
19 ~~the date of that approval.~~

20 ~~(C) For the purposes of subparagraph (A), in computing the~~
21 ~~total wages paid or incurred for the production of a qualified~~
22 ~~motion picture, all amounts paid or incurred by all persons or~~
23 ~~entities that share in the costs of the qualified motion picture shall~~
24 ~~be aggregated.~~

25 ~~(D) “Qualified motion picture” shall not include commercial~~
26 ~~advertising, music videos, a motion picture produced for private~~
27 ~~noncommercial use, such as weddings, graduations, or as part of~~
28 ~~an educational course and made by students, a news program,~~
29 ~~current events or public events program, talk show, game show,~~
30 ~~sporting event or activity, awards show, telethon or other~~
31 ~~production that solicits funds, reality television program, clip-based~~
32 ~~programming if more than 50 percent of the content is comprised~~
33 ~~of licensed footage, documentaries, variety programs, daytime~~
34 ~~dramas, strip shows, one-half hour (air time) episodic television~~
35 ~~shows, or any production that falls within the recordkeeping~~
36 ~~requirements of Section 2257 of Title 18 of the United States Code.~~

37 ~~(16) “Qualified expenditures” means amounts paid or incurred~~
38 ~~to purchase or lease tangible personal property used within this~~
39 ~~state in the production of a qualified motion picture and payments;~~

1 including qualified wages, for services performed within this state
2 in the production of a qualified motion picture.

3 (17) (A) “Qualified taxpayer” means a taxpayer who has paid
4 or incurred qualified expenditures and has been issued a credit
5 certificate by the California Film Commission pursuant to
6 subdivision (g).

7 (B) In the case of any pass-thru entity, the determination of
8 whether a taxpayer is a qualified taxpayer under this section shall
9 be made at the entity level and any credit under this section is not
10 allowed to the pass-thru entity, but shall be passed through to the
11 partners or shareholders in accordance with applicable provisions
12 of Part 10 (commencing with Section 17001) or Part 11
13 (commencing with Section 23001). For purposes of this paragraph,
14 “pass-thru entity” means any entity taxed as a partnership or “S”
15 corporation.

16 (18) (A) “Qualified wages” means all of the following:

17 (i) Any wages subject to withholding under Division 6
18 (commencing with Section 13000) of the Unemployment Insurance
19 Code that were paid or incurred by any taxpayer involved in the
20 production of a qualified motion picture with respect to a qualified
21 individual for services performed on the qualified motion picture
22 production within this state.

23 (ii) The portion of any employee fringe benefits paid or incurred
24 by any taxpayer involved in the production of the qualified motion
25 picture that are properly allocable to qualified wage amounts
26 described in clause (i).

27 (iii) Any payments made to a qualified entity for services
28 performed in this state by qualified individuals within the meaning
29 of paragraph (14).

30 (iv) Remuneration paid to an independent contractor who is a
31 qualified individual for services performed within this state by that
32 qualified individual.

33 (B) “Qualified wages” shall not include any of the following:

34 (i) Expenses, including wages, related to new use, reuse, clip
35 use, licensing, secondary markets, or residual compensation, or
36 the creation of any ancillary product, including, but not limited to,
37 a soundtrack album, toy, game, trailer, or teaser.

38 (ii) Expenses, including wages, paid or incurred with respect to
39 acquisition, development, turnaround, or any rights thereto.

1 (iii) Expenses, including wages, related to financing, overhead,
2 marketing, promotion, or distribution of a qualified motion picture.

3 (iv) Expenses, including wages, paid per person per qualified
4 motion picture for writers, directors, music directors, music
5 composers, music supervisors, producers, and performers, other
6 than background actors with no-scripted lines.

7 (19) “Residual—compensation” means—supplemental
8 compensation paid at the time that a motion picture is exhibited
9 through new use, reuse, clip use, or in secondary markets, as
10 distinguished from payments made during production.

11 (20) “Reuse” means any use of a qualified motion picture in the
12 same medium for which it was created, following the initial use
13 in that medium.

14 (21) “Secondary markets” means media in which a qualified
15 motion picture is exhibited following the initial media in which it
16 is exhibited.

17 (22) “Television series that relocated to California” means a
18 television series, without regard to episode length or initial media
19 exhibition, that filmed all of its prior season or seasons outside of
20 California and for which the taxpayer certifies that the credit
21 provided pursuant to this section is the primary reason for
22 relocating to California.

23 (e) (1) Notwithstanding any other law, a qualified taxpayer
24 may sell any credit allowed under this section that is attributable
25 to an independent film, as defined in paragraph (6) of subdivision
26 (b), to an unrelated party.

27 (2) The qualified taxpayer shall report to the Franchise Tax
28 Board prior to the sale of the credit, in the form and manner
29 specified by the Franchise Tax Board, all required information
30 regarding the purchase and sale of the credit, including the social
31 security or other taxpayer identification number of the unrelated
32 party to whom the credit has been sold, the face amount of the
33 credit sold, and the amount of consideration received by the
34 qualified taxpayer for the sale of the credit.

35 (3) In the case where the credit allowed under this section
36 exceeds the “net tax,” the excess credit may be carried over to
37 reduce the “net tax” in the following taxable year, and succeeding
38 five taxable years, if necessary, until the credit has been exhausted.

1 ~~(4) A credit shall not be sold pursuant to this subdivision to~~
2 ~~more than one taxpayer, nor may the credit be resold by the~~
3 ~~unrelated party to another taxpayer or other party.~~

4 ~~(5) A party that has acquired tax credits under this section shall~~
5 ~~be subject to the requirements of this section.~~

6 ~~(6) In no event may a qualified taxpayer assign or sell any tax~~
7 ~~credit to the extent the tax credit allowed by this section is claimed~~
8 ~~on any tax return of the qualified taxpayer.~~

9 ~~(7) In the event that both the taxpayer originally allocated a~~
10 ~~credit under this section by the California Film Commission and~~
11 ~~a taxpayer to whom the credit has been sold both claim the same~~
12 ~~amount of credit on their tax returns, the Franchise Tax Board may~~
13 ~~disallow the credit of either taxpayer, so long as the statute of~~
14 ~~limitations upon assessment remains open.~~

15 ~~(8) Chapter 3.5 (commencing with Section 11340) of Part 1 of~~
16 ~~Division 3 of Title 2 of the Government Code does not apply to~~
17 ~~any standard, criterion, procedure, determination, rule, notice, or~~
18 ~~guideline established or issued by the Franchise Tax Board~~
19 ~~pursuant to this subdivision.~~

20 ~~(9) Subdivision (g) of Section 17039 shall not apply to any~~
21 ~~credit sold pursuant to this subdivision.~~

22 ~~(10) For purposes of this subdivision, the unrelated party or~~
23 ~~parties that purchase a credit pursuant to this subdivision shall be~~
24 ~~treated as a qualified taxpayer pursuant to paragraph (1) of~~
25 ~~subdivision (a).~~

26 ~~(d) No credit shall be allowed pursuant to this section unless~~
27 ~~the qualified taxpayer provides the following to the California~~
28 ~~Film Commission:~~

29 ~~(1) Identification of each qualified individual.~~

30 ~~(2) The specific start and end dates of production.~~

31 ~~(3) The total wages paid.~~

32 ~~(4) The amount of qualified wages paid to each qualified~~
33 ~~individual.~~

34 ~~(5) The copyright registration number, as reflected on the~~
35 ~~certificate of registration issued under the authority of Section 410~~
36 ~~of Title 17 of the United States Code, relating to registration of~~
37 ~~claim and issuance of certificate. The registration number shall be~~
38 ~~provided on the return claiming the credit.~~

1 ~~(6) The total amounts paid or incurred to purchase or lease~~
2 ~~tangible personal property used in the production of a qualified~~
3 ~~motion picture.~~

4 ~~(7) Information to substantiate its qualified expenditures.~~

5 ~~(8) Information required by the California Film Commission~~
6 ~~under regulations promulgated pursuant to subdivision (g)~~
7 ~~necessary to verify the amount of credit claimed.~~

8 ~~(e) The California Film Commission may prescribe rules and~~
9 ~~regulations to carry out the purposes of this section including any~~
10 ~~rules and regulations necessary to establish procedures, processes,~~
11 ~~requirements, and rules identified in or required to implement this~~
12 ~~section. The regulations shall include provisions to set aside a~~
13 ~~percentage of annual credit allocations for independent films.~~

14 ~~(f) If the qualified taxpayer fails to provide the copyright~~
15 ~~registration number as required in paragraph (5) of subdivision~~
16 ~~(d), the credit shall be disallowed and assessed and collected under~~
17 ~~Section 19051 until the procedures are satisfied.~~

18 ~~(g) For purposes of this section, the California Film Commission~~
19 ~~shall do the following:~~

20 ~~(1) On or after July 1, 2009, and before July 1, 2017, allocate~~
21 ~~tax credits to applicants.~~

22 ~~(A) Establish a procedure for applicants to file with the~~
23 ~~California Film Commission a written application, on a form jointly~~
24 ~~prescribed by the California Film Commission and the Franchise~~
25 ~~Tax Board for the allocation of the tax credit. The application shall~~
26 ~~include, but not be limited to, the following information:~~

27 ~~(i) The budget for the motion picture production.~~

28 ~~(ii) The number of production days.~~

29 ~~(iii) A financing plan for the production.~~

30 ~~(iv) The diversity of the workforce employed by the applicant,~~
31 ~~including, but not limited to, the ethnic and racial makeup of the~~
32 ~~individuals employed by the applicant during the production of~~
33 ~~the qualified motion picture, to the extent possible.~~

34 ~~(v) All members of a combined reporting group, if known at~~
35 ~~the time of the application.~~

36 ~~(vi) Financial information, if available, including, but not limited~~
37 ~~to, the most recently produced balance sheets, annual statements~~
38 ~~of profits and losses, audited or unaudited financial statements,~~
39 ~~summary budget projections or results, or the functional equivalent~~
40 ~~of these documents of a partnership or owner of a single member~~

1 ~~limited liability company that is disregarded pursuant to Section~~
2 ~~23038. The information provided pursuant to this clause shall be~~
3 ~~confidential and shall not be subject to public disclosure.~~

4 ~~(vii) The names of all partners in a partnership not publicly~~
5 ~~traded or the names of all members of a limited liability company~~
6 ~~classified as a partnership not publicly traded for California income~~
7 ~~tax purposes that have a financial interest in the applicant's~~
8 ~~qualified motion picture. The information provided pursuant to~~
9 ~~this clause shall be confidential and shall not be subject to public~~
10 ~~disclosure.~~

11 ~~(viii) Detailed narratives, for use only by the Legislative~~
12 ~~Analyst's Office in conducting a study of the effectiveness of this~~
13 ~~credit, that describe the extent to which the credit is expected to~~
14 ~~influence or affect filming and other business location decisions;~~
15 ~~hiring decisions, salary decisions, and any other financial matters~~
16 ~~of the applicant.~~

17 ~~(ix) Any other information deemed relevant by the California~~
18 ~~Film Commission or the Franchise Tax Board.~~

19 ~~(B) Establish criteria, consistent with the requirements of this~~
20 ~~section, for allocating tax credits.~~

21 ~~(C) Determine and designate applicants who meet the~~
22 ~~requirements of this section.~~

23 ~~(D) Process and approve, or reject, all applications on a~~
24 ~~first-come-first-served basis.~~

25 ~~(E) Subject to the annual cap established as provided in~~
26 ~~subdivision (i), allocate an aggregate amount of credits under this~~
27 ~~section and Section 23685, and allocate any carryover of~~
28 ~~unallocated credits from prior years.~~

29 ~~(2) Certify tax credits allocated to qualified taxpayers.~~

30 ~~(A) Establish a verification procedure for the amount of qualified~~
31 ~~expenditures paid or incurred by the applicant, including, but not~~
32 ~~limited to, updates to the information in subparagraph (A) of~~
33 ~~paragraph (1) of subdivision (g).~~

34 ~~(B) Establish audit requirements that must be satisfied before~~
35 ~~a credit certificate may be issued by the California Film~~
36 ~~Commission.~~

37 ~~(C) (i) Establish a procedure for a qualified taxpayer to report~~
38 ~~to the California Film Commission, prior to the issuance of a credit~~
39 ~~certificate, the following information:~~

1 ~~(I) If readily available, a list of the states, provinces, or other~~
2 ~~jurisdictions in which any member of the applicant's combined~~
3 ~~reporting group in the same business unit as the qualified taxpayer~~
4 ~~that, in the preceding calendar year, has produced a qualified~~
5 ~~motion picture intended for release in the United States market.~~
6 ~~For purposes of this clause, "qualified motion picture" shall not~~
7 ~~include any episodes of a television series that were complete or~~
8 ~~in production prior to July 1, 2009.~~

9 ~~(II) Whether a qualified motion picture described in subclause~~
10 ~~(I) was awarded any financial incentive by the state, province, or~~
11 ~~other jurisdiction that was predicated on the performance of~~
12 ~~primary principal photography or postproduction in that location.~~

13 ~~(ii) The California Film Commission may provide that the report~~
14 ~~required by this subparagraph be filed in a single report provided~~
15 ~~on a calendar year basis for those qualified taxpayers that receive~~
16 ~~multiple credit certificates in a calendar year.~~

17 ~~(D) Issue a credit certificate to a qualified taxpayer upon~~
18 ~~completion of the qualified motion picture reflecting the credit~~
19 ~~amount allocated after qualified expenditures have been verified~~
20 ~~under this section. The amount of credit shown in the credit~~
21 ~~certificate shall not exceed the amount of credit allocated to that~~
22 ~~qualified taxpayer pursuant to this section.~~

23 ~~(3) Obtain, when possible, the following information from~~
24 ~~applicants that do not receive an allocation of credit:~~

25 ~~(A) Whether the qualified motion picture that was the subject~~
26 ~~of the application was completed.~~

27 ~~(B) If completed, in which state or foreign jurisdiction was the~~
28 ~~primary principal photography completed.~~

29 ~~(C) Whether the applicant received any financial incentives~~
30 ~~from the state or foreign jurisdiction to make the qualified motion~~
31 ~~picture in that location.~~

32 ~~(4) Provide the Legislative Analyst's Office, upon request, any~~
33 ~~or all application materials or any other materials received from,~~
34 ~~or submitted by, the applicants, in electronic format when available,~~
35 ~~including, but not limited to, information provided pursuant to~~
36 ~~clauses (i) to (ix), inclusive, of subparagraph (A) of paragraph (1).~~

37 ~~(5) The information provided to the California Film Commission~~
38 ~~pursuant to this section shall constitute confidential tax information~~
39 ~~for purposes of Article 2 (commencing with Section 19542) of~~
40 ~~Chapter 7 of Part 10.2.~~

1 ~~(h) (1) The California Film Commission shall annually provide~~
2 ~~the Legislative Analyst's Office, the Franchise Tax Board, and the~~
3 ~~board with a list of qualified taxpayers and the tax credit amounts~~
4 ~~allocated to each qualified taxpayer by the California Film~~
5 ~~Commission. The list shall include the names and taxpayer~~
6 ~~identification numbers, including taxpayer identification numbers~~
7 ~~of each partner or shareholder, as applicable, of the qualified~~
8 ~~taxpayer.~~

9 ~~(2) (A) Notwithstanding paragraph (5) of subdivision (g), the~~
10 ~~California Film Commission shall annually post on its Internet~~
11 ~~Web site and make available for public release the following:~~

12 ~~(i) A table which includes all of the following information: a~~
13 ~~list of qualified taxpayers and the tax credit amounts allocated to~~
14 ~~each qualified taxpayer by the California Film Commission, the~~
15 ~~number of production days in California the qualified taxpayer~~
16 ~~represented in its application would occur, the number of California~~
17 ~~jobs that the qualified taxpayer represented in its application would~~
18 ~~be directly created by the production, and the total amount of~~
19 ~~qualified expenditures expected to be spent by the production.~~

20 ~~(ii) A narrative staff summary describing the production of the~~
21 ~~qualified taxpayer as well as background information regarding~~
22 ~~the qualified taxpayer contained in the qualified taxpayer's~~
23 ~~application for the credit.~~

24 ~~(B) Nothing in this subdivision shall be construed to make the~~
25 ~~information submitted by an applicant for a tax credit under this~~
26 ~~section a public record.~~

27 ~~(i) (1) The aggregate amount of credits that may be allocated~~
28 ~~in any fiscal year pursuant to this section and Section 23685 shall~~
29 ~~be an amount equal to the sum of all of the following:~~

30 ~~(A) One hundred million dollars (\$100,000,000) in credits for~~
31 ~~the 2009-10 fiscal year and each fiscal year thereafter, through~~
32 ~~and including the 2014-15 fiscal year.~~

33 ~~(B) In addition to the amounts specified in subparagraph (A),~~
34 ~~one hundred million dollars (\$100,000,000) in the aggregate~~
35 ~~amount of credits that may be allocated for the 2015-16 and~~
36 ~~2016-17 fiscal years.~~

37 ~~(C) The unused allocation credit amount, if any, for the~~
38 ~~preceding fiscal year.~~

39 ~~(D) The amount of previously allocated credits not certified.~~

~~(2) If the amount of credits applied for in any particular fiscal year exceeds the aggregate amount of tax credits authorized to be allocated under this section, such excess shall be treated as having been applied for on the first day of the subsequent fiscal year. However, credits may not be allocated from a fiscal year other than the fiscal year in which the credit was originally applied for or the immediately succeeding fiscal year.~~

~~(3) Notwithstanding the foregoing, the California Film Commission shall set aside up to ten million dollars (\$10,000,000) of tax credits each fiscal year for independent films allocated in accordance with rules and regulations developed pursuant to subdivision (e).~~

~~(4) Any act that reduces the amount that may be allocated pursuant to paragraph (1) constitutes a change in state taxes for the purpose of increasing revenues within the meaning of Section 3 of Article XIII A of the California Constitution and may be passed by not less than two-thirds of all Members elected to each of the two houses of the Legislature.~~

~~(j) The California Film Commission shall have the authority to allocate tax credits in accordance with this section and in accordance with any regulations prescribed pursuant to subdivision (e) upon adoption.~~

~~SEC. 6.~~

~~SEC. 5. Section 17053.95 is added to the Revenue and Taxation Code, to read:~~

~~17053.95. (a) (1) For taxable years beginning on or after January 1, 2016, there shall be allowed to a qualified taxpayer a credit against the "net tax," as defined in Section 17039, subject to a computation and ranking by the California Film Commission in subdivision (g) and the allocation amount categories described in subdivision (i), in an amount equal to 20 percent or 25 percent, whichever is the applicable credit percentage described in paragraph (4), of the qualified expenditures for the production of a qualified motion picture in California. A credit shall not be allowed under this section for any qualified expenditures for the production of a motion picture in California if a credit has been claimed for those same expenditures under Section 17053.85.~~

~~(2) *Except as otherwise provided in this section, the* credit shall be allowed for the taxable year in which the California Film Commission issues the credit certificate pursuant to subdivision~~

(g) for the qualified motion picture, but in no instance prior to July 1, 2016, and shall be for the applicable percentage of all qualified expenditures paid or incurred by the qualified taxpayer in all taxable years for that qualified motion picture.

(3) The amount of the credit allowed to a qualified taxpayer shall be limited to the amount specified in the credit certificate issued to the qualified taxpayer by the California Film Commission pursuant to subdivision (g).

(4) For purposes of paragraphs (1) and (2), the applicable credit percentage shall be:

(A) Twenty percent of the qualified expenditures attributable to the production of a qualified motion picture in California, including, but not limited to, a feature, up to one hundred million dollars (\$100,000,000) in qualified expenditures, or a television series that relocated to California that is in its second or subsequent years of receiving a tax credit allocation pursuant to this section or Section 17053.85.

(B) Twenty-five percent of the qualified expenditures attributable to the production of a qualified motion picture in California where the qualified motion picture is a television series that relocated to California in its first year of receiving a tax credit allocation pursuant to this section.

(C) Twenty-five percent of the qualified expenditures, up to ten million dollars (\$10,000,000), attributable to the production of a qualified motion picture that is an independent film.

~~(D) (i) In order to carry out subparagraph (D) of paragraph (2) of subdivision (d), the California Film Commission shall increase the applicable credit percentage by 5 percent, not to exceed a maximum of 25 percent of qualified expenditures relating to original photography outside the Los Angeles zone.~~

(D) Additional credits shall be allowed to a qualified motion picture whose applicable credit percentage is determined pursuant to subparagraph (A), in an aggregate amount not to exceed 5 percent of the qualified expenditures under that subparagraph, as follows:

(i) (I) Five percent of qualified expenditures relating to original photography outside the Los Angeles zone.

~~(ii)~~

~~(II) For purposes of this subparagraph:~~

~~(i)~~

1 ~~(ia)~~ “Applicable period” means the period that commences with
2 preproduction and ends when original photography concludes. The
3 applicable period includes the time necessary to strike a remote
4 location and return to the Los Angeles zone.

5 ~~(H)~~

6 ~~(ib)~~ “Los Angeles zone” means the area within a circle 30 miles
7 in radius from Beverly Boulevard and La Cienega Boulevard, Los
8 Angeles, California, and includes Agua Dulce, Castaic, including
9 Lake Castaic, Leo Carillo State Beach, Ontario International
10 Airport, Piru, and Pomona, including the Los Angeles County
11 Fairgrounds. The Metro Goldwyn Mayer, Inc. Conejo Ranch
12 property is within the Los Angeles zone.

13 ~~(HH)~~

14 ~~(ic)~~ “Original photography” includes principal photography
15 and reshooting original footage.

16 ~~(IV)~~

17 ~~(id)~~ “Qualified expenditures relating to original photography
18 outside the Los Angeles zone” means amounts paid or incurred
19 during the applicable period for tangible personal property
20 purchased or leased and used or consumed outside the Los Angeles
21 zone and relating to original photography outside the Los Angeles
22 zone and qualified wages paid for services performed outside the
23 Los Angeles zone and relating to original photography outside the
24 Los Angeles zone.

25 ~~(E) Twenty-five~~

26 ~~(ii)~~ Five percent of the qualified expenditures relating to music
27 scoring and music track recording by musicians attributable to the
28 production of a qualified motion picture in California.

29 ~~(F) Twenty-five~~

30 ~~(iii)~~ Five percent of the qualified expenditures relating to
31 qualified visual effects attributable to the production of a qualified
32 motion picture in California.

33 (b) For purposes of this section:

34 (1) “Ancillary product” means any article for sale to the public
35 that contains a portion of, or any element of, the qualified motion
36 picture.

37 (2) “Budget” means an estimate of all expenses paid or incurred
38 during the production period of a qualified motion picture. It shall
39 be the same budget used by the qualified taxpayer and production
40 company for all qualified motion picture purposes.

1 (3) “Clip use” means a use of any portion of a motion picture,
2 other than the qualified motion picture, used in the qualified motion
3 picture.

4 (4) “Credit certificate” means the certificate issued by the
5 California Film Commission pursuant to subparagraph (C) of
6 paragraph (3) of subdivision (g).

7 (5) (A) “Employee fringe benefits” means the amount allowable
8 as a deduction under this part to the qualified taxpayer involved
9 in the production of the qualified motion picture, exclusive of any
10 amounts contributed by employees, for any year during the
11 production period with respect to any of the following:

12 (i) Employer contributions under any pension, profit-sharing,
13 annuity, or similar plan.

14 (ii) Employer-provided coverage under any accident or health
15 plan for employees.

16 (iii) The employer’s cost of life or disability insurance provided
17 to employees.

18 (B) Any amount treated as wages under clause (i) of
19 subparagraph (A) of paragraph (21) shall not be taken into account
20 under this paragraph.

21 (6) “Independent film” means a motion picture with a minimum
22 budget of one million dollars (\$1,000,000) that is produced by a
23 company that is not publicly traded and publicly traded companies
24 do not own, directly or indirectly, more than 25 percent of the
25 producing company.

26 (7) “Jobs ratio” means the amount of qualified wages paid to
27 qualified individuals divided by the amount of tax credit, *not*
28 *including any additional credit allowed pursuant to subparagraph*
29 *(D) of paragraph (4) of subdivision (a)*, as computed by the
30 California Film Commission.

31 (8) “Licensing” means any grant of rights to distribute the
32 qualified motion picture, in whole or in part.

33 (9) “New use” means any use of a motion picture in a medium
34 other than the medium for which it was initially created.

35 (10) “Pilot for a new television series” means the initial episode
36 produced for a proposed television series.

37 (11) (A) “Postproduction” means the final activities in a
38 qualified motion picture’s production, including editing, foley
39 recording, automatic dialogue replacement, sound editing, scoring,
40 music track recording by musicians and music editing, beginning

1 and end credits, negative cutting, negative processing and
2 duplication, the addition of sound and visual effects, sound mixing,
3 film-to-tape transfers, encoding, and color correction.

4 (B) “Postproduction” does not include the manufacture or
5 shipping of release prints or their equivalent.

6 (12) “Preproduction” means the process of preparation for actual
7 physical production which begins after a qualified motion picture
8 has received a firm agreement of financial commitment, or is
9 greenlit, with, for example, the establishment of a dedicated
10 production office, the hiring of key crew members, and includes,
11 but is not limited to, activities that include location scouting and
12 execution of contracts with vendors of equipment and stage space.

13 (13) “Principal photography” means the phase of production
14 during which the motion picture is actually shot, as distinguished
15 from preproduction and postproduction.

16 (14) “Production period” means the period beginning with
17 preproduction and ending upon completion of postproduction.

18 (15) “Qualified entity” means a personal service corporation as
19 defined in Section 269A(b)(1) of the Internal Revenue Code, a
20 payroll services corporation, or any entity receiving qualified wages
21 with respect to services performed by a qualified individual.

22 (16) “Qualified expenditures” means amounts paid or incurred
23 for tangible personal property purchased or leased, and used, within
24 this state in the production of a qualified motion picture and
25 payments, including qualified wages, for services performed within
26 this state in the production of a qualified motion picture.

27 (17) (A) “Qualified individual” means any individual who
28 performs services during the production period in an activity related
29 to the production of a qualified motion picture.

30 (B) “Qualified individual” shall not include either of the
31 following:

32 (i) Any individual related to the qualified taxpayer as described
33 in subparagraph (A), (B), or (C) of Section 51(i)(1) of the Internal
34 Revenue Code.

35 (ii) Any 5-percent owner, as defined in Section 416(i)(1)(B) of
36 the Internal Revenue Code, of the qualified taxpayer.

37 (18) (A) “Qualified motion picture” means a motion picture
38 that is produced for distribution to the general public, regardless
39 of medium, that is one of the following:

1 (i) A feature with a minimum production budget of one million
2 dollars (\$1,000,000).

3 (ii) A movie of the week or miniseries with a minimum
4 production budget of five hundred thousand dollars (\$500,000).

5 (iii) A new television series of episodes longer than 40 minutes
6 each of running time, exclusive of commercials, that is produced
7 in California, with a minimum production budget of one million
8 dollars (\$1,000,000) per episode.

9 (iv) An independent film.

10 (v) A television series that relocated to California.

11 (vi) A pilot for a new television series that is longer than 40
12 minutes of running time, exclusive of commercials, that is produced
13 in California, and with a minimum production budget of one
14 million dollars (\$1,000,000).

15 (B) To qualify as a “qualified motion picture,” all of the
16 following conditions shall be satisfied:

17 (i) At least 75 percent of the principal photography days occur
18 wholly in California or 75 percent of the production budget is
19 incurred for payment for services performed within the state and
20 the purchase or rental of property used within the state.

21 (ii) Production of the qualified motion picture is completed
22 within 30 months from the date on which the qualified taxpayer’s
23 application is approved by the California Film Commission. For
24 purposes of this section, a qualified motion picture is “completed”
25 when the process of postproduction has been finished.

26 (iii) The copyright for the motion picture is registered with the
27 United States Copyright Office pursuant to Title 17 of the United
28 States Code.

29 (iv) Principal photography of the qualified motion picture
30 commences after the date on which the application is approved by
31 the California Film Commission, but no later than 180 days after
32 the date of that approval unless death, disability, or disfigurement
33 of the director or of a principal cast member, an act of God,
34 including, but not limited to, fire, flood, earthquake, storm,
35 hurricane, or other natural disaster, terrorist activities, or
36 government sanction has directly prevented a production’s ability
37 to begin principal photography within the prescribed 180-day
38 commencement period.

39 (C) For the purposes of subparagraph (A), in computing the
40 total wages paid or incurred for the production of a qualified

1 motion picture, all amounts paid or incurred by all persons or
2 entities that share in the costs of the qualified motion picture shall
3 be aggregated.

4 (D) “Qualified motion picture” shall not include commercial
5 advertising, music videos, a motion picture produced for private
6 noncommercial use, such as weddings, graduations, or as part of
7 an educational course and made by students, a news program,
8 current events or public events program, talk show, game show,
9 sporting event or activity, awards show, telethon or other
10 production that solicits funds, reality television program, clip-based
11 programming if more than 50 percent of the content is comprised
12 of licensed footage, documentaries, variety programs, daytime
13 dramas, strip shows, one-half hour (air time) episodic television
14 shows, or any production that falls within the recordkeeping
15 requirements of Section 2257 of Title 18 of the United States Code.

16 (19) (A) “Qualified taxpayer” means a taxpayer who has paid
17 or incurred qualified expenditures, participated in the Career
18 Readiness requirement, and has been issued a credit certificate by
19 the California Film Commission pursuant to subdivision (g).

20 (B) In the case of any pass-thru entity, the determination of
21 whether a taxpayer is a qualified taxpayer under this section shall
22 be made at the entity level and any credit under this section is not
23 allowed to the pass-thru entity, but shall be passed through to the
24 partners or shareholders in accordance with applicable provisions
25 of Part 10 (commencing with Section 17001) or Part 11
26 (commencing with Section 23001). For purposes of this paragraph,
27 “pass-thru entity” means any entity taxed as a partnership or “S”
28 corporation.

29 (20) “Qualified visual effects” means visual effects where at
30 least 75 percent or a minimum of ten million dollars (\$10,000,000)
31 of the qualified expenditures for the visual effects is paid or
32 incurred in California.

33 (21) (A) “Qualified wages” means all of the following:

34 (i) Any wages subject to withholding under Division 6
35 (commencing with Section 13000) of the Unemployment Insurance
36 Code that were paid or incurred by any taxpayer involved in the
37 production of a qualified motion picture with respect to a qualified
38 individual for services performed on the qualified motion picture
39 production within this state.

1 (ii) The portion of any employee fringe benefits paid or incurred
2 by any taxpayer involved in the production of the qualified motion
3 picture that are properly allocable to qualified wage amounts
4 described in clauses (i), (iii), and (iv).

5 (iii) Any payments made to a qualified entity for services
6 performed in this state by qualified individuals within the meaning
7 of paragraph (17).

8 (iv) Remuneration paid to an independent contractor who is a
9 qualified individual for services performed within this state by that
10 qualified individual.

11 (B) “Qualified wages” shall not include any of the following:

12 (i) Expenses, including wages, related to new use, reuse, clip
13 use, licensing, secondary markets, or residual compensation, or
14 the creation of any ancillary product, including, but not limited to,
15 a soundtrack album, toy, game, trailer, or teaser.

16 (ii) Expenses, including wages, paid or incurred with respect to
17 acquisition, development, turnaround, or any rights thereto.

18 (iii) Expenses, including wages, related to financing, overhead,
19 marketing, promotion, or distribution of a qualified motion picture.

20 (iv) Expenses, including wages, paid per person per qualified
21 motion picture for writers, directors, music directors, music
22 composers, music supervisors, producers, and performers, other
23 than background actors with no scripted lines.

24 (22) “Residual compensation” means supplemental
25 compensation paid at the time that a motion picture is exhibited
26 through new use, reuse, clip use, or in secondary markets, as
27 distinguished from payments made during production.

28 (23) “Reuse” means any use of a qualified motion picture in the
29 same medium for which it was created, following the initial use
30 in that medium.

31 (24) “Secondary markets” means media in which a qualified
32 motion picture is exhibited following the initial media in which it
33 is exhibited.

34 (25) “Television series that relocated to California” means a
35 television series, without regard to episode length or initial media
36 exhibition, with a minimum production budget of one million
37 dollars (\$1,000,000) per episode, that filmed ~~no fewer than~~ its most
38 recent ~~two seasons~~ *season* outside of California or has filmed all
39 seasons outside of California and for which the taxpayer certifies

1 that the credit provided pursuant to this section is the primary
2 reason for relocating to California.

3 (26) “Visual effects” means the creation, alteration, or
4 enhancement of images that cannot be captured on a set or location
5 during live action photography and therefore is accomplished in
6 postproduction. It includes, but is not limited to, matte paintings,
7 animation, set extensions, computer-generated objects, characters
8 and environments, compositing (combining two or more elements
9 in a final image), and wire removals. “Visual effects” does not
10 include fully animated projects, whether created by traditional or
11 digital means.

12 (c) (1) Notwithstanding any other law, a qualified taxpayer
13 may sell any credit allowed under this section that is attributable
14 to an independent film, as defined in paragraph (6) of subdivision
15 (b), to an unrelated party.

16 (2) The qualified taxpayer shall report to the Franchise Tax
17 Board prior to the sale of the credit, in the form and manner
18 specified by the Franchise Tax Board, all required information
19 regarding the purchase and sale of the credit, including the social
20 security or other taxpayer identification number of the unrelated
21 party to whom the credit has been sold, the face amount of the
22 credit sold, and the amount of consideration received by the
23 qualified taxpayer for the sale of the credit.

24 (3) In the case where the credit allowed under this section
25 exceeds the “net tax,” the excess credit may be carried over to
26 reduce the “net tax” in the following taxable year, and succeeding
27 five taxable years, if necessary, until the credit has been exhausted.

28 (4) A credit shall not be sold pursuant to this subdivision to
29 more than one taxpayer, nor may the credit be resold by the
30 unrelated party to another taxpayer or other party.

31 (5) A party that has acquired tax credits under this subdivision
32 shall be subject to the requirements of this section.

33 (6) In no event may a qualified taxpayer assign or sell any tax
34 credit to the extent the tax credit allowed by this section is claimed
35 on any tax return of the qualified taxpayer.

36 (7) In the event that both the taxpayer originally allocated a
37 credit under this section by the California Film Commission and
38 a taxpayer to whom the credit has been sold both claim the same
39 amount of credit on their tax returns, the Franchise Tax Board may

1 disallow the credit of either taxpayer, so long as the statute of
2 limitations upon assessment remains open.

3 (8) Chapter 3.5 (commencing with Section 11340) of Part 1 of
4 Division 3 of Title 2 of the Government Code does not apply to
5 any standard, criterion, procedure, determination, rule, notice, or
6 guideline established or issued by the Franchise Tax Board
7 pursuant to this subdivision.

8 (9) Subdivision (g) of Section 17039 shall not apply to any
9 credit sold pursuant to this subdivision.

10 (10) For purposes of this subdivision, the unrelated party or
11 parties that purchase a credit pursuant to this subdivision shall be
12 treated as a qualified taxpayer pursuant to paragraph (1) of
13 subdivision (a).

14 (d) (1) No credit shall be allowed pursuant to this section unless
15 the qualified taxpayer provides the following to the California
16 Film Commission:

17 (A) Identification of each qualified individual.

18 (B) The specific start and end dates of production.

19 (C) The total wages paid.

20 (D) The total amount of qualified wages paid to qualified
21 individuals.

22 (E) The copyright registration number, as reflected on the
23 certificate of registration issued under the authority of Section 410
24 of Title 17 of the United States Code, relating to registration of
25 claim and issuance of certificate. The registration number shall be
26 provided on the return claiming the credit.

27 (F) The total amounts paid or incurred to purchase or lease
28 tangible personal property used in the production of a qualified
29 motion picture.

30 (G) Information to substantiate its qualified expenditures.

31 (H) Information required by the California Film Commission
32 under regulations promulgated pursuant to subdivision (g)
33 necessary to verify the amount of credit claimed.

34 (I) Provides documentation verifying completion of the Career
35 Readiness requirement.

36 (2) (A) Based on the information provided in paragraph (1),
37 the California Film Commission shall recompute the jobs ratio
38 previously computed in subdivision (g) and compare this
39 recomputed jobs ratio to the jobs ratio that the qualified taxpayer
40 previously listed on the application submitted pursuant to

1 subdivision (g). ~~If the California Film Commission determines~~
2 ~~that the jobs ratio has been reduced by more than 10 percent, the~~
3 ~~California Film Commission shall reduce the amount of credit~~
4 ~~allowed by an equal percentage, unless the qualified taxpayer~~
5 ~~demonstrates, and the California Film Commission determines,~~
6 ~~that reasonable cause exists for the jobs ratio reduction.~~

7 *(B) (i) If the California Film Commission determines that the*
8 *jobs ratio has been reduced by more than 10 percent for a qualified*
9 *motion picture other than an independent film, the California Film*
10 *Commission shall reduce the amount of credit allowed by an equal*
11 *percentage, unless the qualified taxpayer demonstrates, and the*
12 *California Film Commission determines, that reasonable cause*
13 *exists for the jobs ratio reduction.*

14 ~~(B)~~

15 *(ii) If the California Film Commission determines that the jobs*
16 *ratio has been reduced by more than 20 percent for a qualified*
17 *motion picture other than an independent film, the California Film*
18 *Commission shall not accept an application described in*
19 *subdivision (g) from that qualified taxpayer or any member of the*
20 *qualified taxpayer's controlled group for a period of not less than*
21 *one year from the date of that determination, unless the qualified*
22 *taxpayer demonstrates, and the California Film Commission*
23 *determines, that reasonable cause exists for the jobs ratio reduction.*

24 *(C) If the California Film Commission determines that the jobs*
25 *ratio has been reduced by more than 20 30 percent for an*
26 *independent film, the tax credit allocation to the independent film*
27 *shall be revoked unless the qualified taxpayer demonstrates, and*
28 *the California Film Commission determines, that reasonable cause*
29 *exists for the jobs ratio reduction. California Film Commission*
30 *shall reduce the amount of credit allowed by an equal percentage,*
31 *plus 10 percent of the amount of credit that would otherwise have*
32 *been allowed, unless the qualified taxpayer demonstrates, and the*
33 *California Film Commission determines, that reasonable cause*
34 *exists for the jobs ratio reduction.*

35 ~~(D) Subject to subparagraph (D) of paragraph (4) of subdivision~~
36 ~~(a), the California Film Commission shall increase the applicable~~
37 ~~credit percentage by 5 percent, not to exceed a maximum of 25~~
38 ~~percent, if the qualified motion picture paid or incurred outside~~
39 ~~the Los Angeles zone the qualified expenditures relating to original~~
40 ~~photography outside the Los Angeles zone.~~

1 ~~(E)~~

2 (D) For the purposes of this paragraph, “reasonable cause”
3 means unforeseen circumstances beyond the control of the qualified
4 taxpayer, such as, but not limited to, the cancellation of a television
5 series prior to the completion of the scheduled number of episodes
6 or other similar circumstances as determined by the California
7 Film Commission in regulations to be adopted pursuant to
8 subdivision (e).

9 (e) (1) (A) Subject to the Administrative Procedure Act
10 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
11 Division 3 of Title 2 of the Government Code), the California Film
12 Commission shall adopt rules and regulations to implement a
13 Career Readiness requirement by which the California Film
14 Commission shall identify training and public service opportunities
15 that may include, but not be limited to, hiring interns, public service
16 announcements, and community outreach and may prescribe rules
17 and regulations to carry out the purposes of this section, including,
18 ~~subparagraph (E) of paragraph (2) of subdivision (d)~~ *subparagraph*
19 *(D) of paragraph (4) of subdivision (a)* and clause (iv) of
20 subparagraph (D) of paragraph (2) of subdivision (g), and including
21 any rules and regulations necessary to establish procedures,
22 processes, requirements, application fee structure, and rules
23 identified in or required to implement this section, including credit
24 and logo requirements *and credit allocation procedures over*
25 *multiple fiscal years where the qualified taxpayer is producing a*
26 *series of features that will be filmed concurrently.*

27 (B) Notwithstanding any other law, prior to preparing a notice
28 of proposed action pursuant to Section 11346.4 of the Government
29 Code and prior to making any revision to the proposed regulation
30 other than a change that is nonsubstantial or solely grammatical
31 in nature , the Governor’s Office of Business and Economic
32 Development shall first approve the proposed regulation or
33 proposed change to a proposed regulation regarding allocating the
34 credit pursuant to subdivision (i), computing the jobs ratio as
35 described in subdivisions (d) and (g), and defining “reasonable
36 cause” pursuant to subparagraph (E) of paragraph (2) of subdivision
37 (d).

38 (2) (A) Implementation of this section for the 2015–16 fiscal
39 year is deemed an emergency and necessary for the immediate
40 preservation of the public peace, health, and safety, or general

1 welfare and, therefore, the California Film Commission is hereby
2 authorized to adopt emergency regulations to implement this
3 section during the 2015–16 fiscal year in accordance with the
4 rulemaking provisions of the Administrative Procedure Act
5 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
6 Division 3 of Title 2 of the Government Code).

7 (B) Nothing in this paragraph shall be construed to require the
8 Governor’s Office of Business and Economic Development to
9 approve emergency regulations adopted pursuant to this paragraph.

10 (3) *The California Film Commission shall not be required to*
11 *prepare an economic impact analysis pursuant to the*
12 *Administrative Procedure Act (Chapter 3.5 (commencing with*
13 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*
14 *Code) with regard to any rules and regulations adopted pursuant*
15 *to this subdivision.*

16 (f) If the qualified taxpayer fails to provide the copyright
17 registration number as required in subparagraph (E) of paragraph
18 (1) of subdivision (d), the credit shall be disallowed and assessed
19 and collected under Section 19051 until the procedures are
20 satisfied.

21 (g) For purposes of this section, the California Film Commission
22 shall do the following:

23 (1) Subject to the requirements of subparagraphs (A) through
24 (E), inclusive, of paragraph (2), on or after ~~January~~ July 1, 2015,
25 and before July 1, 2016, in one or more allocation periods per
26 fiscal year, allocate tax credits to applicants.

27 (2) On or after July 1, 2016, and before July 1, ~~2019~~, 2020, in
28 two or more allocation periods per fiscal year, allocate tax credits
29 to applicants.

30 (A) Establish a procedure for applicants to file with the
31 California Film Commission a written application, on a form jointly
32 prescribed by the California Film Commission and the Franchise
33 Tax Board for the allocation of the tax credit. The application shall
34 include, but not be limited to, the following information:

35 (i) The budget for the motion picture production.

36 (ii) The number of production days.

37 (iii) A financing plan for the production.

38 (iv) The diversity of the workforce employed by the applicant,
39 including, but not limited to, the ethnic and racial makeup of the

1 individuals employed by the applicant during the production of
2 the qualified motion picture, to the extent possible.

3 (v) All members of a combined reporting group, if known at
4 the time of the application.

5 (vi) Financial information, if available, including, but not limited
6 to, the most recently produced balance sheets, annual statements
7 of profits and losses, audited or unaudited financial statements,
8 summary budget projections or results, or the functional equivalent
9 of these documents of a partnership or owner of a single member
10 limited liability company that is disregarded pursuant to Section
11 23038. The information provided pursuant to this clause shall be
12 confidential and shall not be subject to public disclosure.

13 (vii) The names of all partners in a partnership not publicly
14 traded or the names of all members of a limited liability company
15 classified as a partnership not publicly traded for California income
16 tax purposes that have a financial interest in the applicant's
17 qualified motion picture. The information provided pursuant to
18 this clause shall be confidential and shall not be subject to public
19 disclosure.

20 (viii) The amount of qualified wages the applicant expects to
21 pay to qualified individuals.

22 (ix) ~~The amount of tax credit requested not to exceed the~~
23 ~~applicable credit percentage~~ *the applicant computes the qualified*
24 *motion picture will receive, applying the applicable credit*
25 *percentages* described in paragraph (4) of subdivision (a).

26 (x) A statement establishing that the tax credit described in this
27 section is a significant factor in the applicant's choice of location
28 for the qualified motion picture. The statement shall include
29 information about whether the qualified motion picture is at risk
30 of not being filmed or specify the jurisdiction or jurisdictions in
31 which the qualified motion picture will be located in the absence
32 of the tax credit. The statement shall be signed by an officer or
33 executive of the applicant.

34 (xi) Any other information deemed relevant by the California
35 Film Commission or the Franchise Tax Board.

36 (B) Establish criteria, consistent with the requirements of this
37 section, for allocating tax credits.

38 (C) Determine and designate applicants who meet the
39 requirements of this section.

1 (D) (i) For purposes of allocating the credit amounts subject to
2 the categories described in subdivision (i) in any fiscal year, the
3 California Film Commission shall do all of the following:

4 (ii) For each allocation date and for each category, list each
5 applicant from highest to lowest according to the jobs ratio as
6 computed by the California Film Commission.

7 (iii) Subject to the applicable credit percentage, allocate the
8 credit to each applicant according to the highest jobs ratio, working
9 down the list, until the credit amount is exhausted.

10 (iv) Pursuant to regulations adopted pursuant to subdivision (e),
11 the California Film Commission may increase the jobs ratio by up
12 to 25 percent if a qualified motion picture increases economic
13 activity in California according to criteria developed by the
14 California Film Commission that would include, but not be limited
15 to, such factors as, the amount of the production and postproduction
16 spending in California, the utilization of production facilities in
17 California, and other criteria measuring economic impact in
18 California as determined by the Film Commission.

19 (v) Notwithstanding any other provision, any ~~new~~ television
20 series, relocating television series, or any new television series
21 based on a pilot for a new television series that has been approved
22 and issued a credit allocation by the California Film Commission
23 ~~either~~ under this section, Section 23695, 17053.85, or 23685 shall
24 be issued a credit for each subsequent year, ~~in an amount equal to~~
25 ~~the prior credit amount~~, for the life of that ~~qualified motion picture~~
26 *television series* whenever credits are allocated within a fiscal
27 year.

28 (E) Subject to the annual cap and the allocation credit amounts
29 based on categories described in subdivision (i), allocate an
30 aggregate amount of credits under this section and Section 23695,
31 and allocate any carryover of unallocated credits from prior years
32 and the amount of any credits reduced pursuant to paragraph (2)
33 of subdivision (d).

34 (3) Certify tax credits allocated to qualified taxpayers.

35 (A) Establish a verification procedure for the amount of qualified
36 expenditures paid or incurred by the applicant, including, but not
37 limited to, updates to the information in subparagraph (A) of
38 paragraph (2) of subdivision (g).

1 (B) Establish audit requirements that must be satisfied before
2 a credit certificate may be issued by the California Film
3 Commission.

4 (C) (i) Establish a procedure for a qualified taxpayer to report
5 to the California Film Commission, prior to the issuance of a credit
6 certificate, the following information:

7 (I) If readily available, a list of the states, provinces, or other
8 jurisdictions in which any member of the applicant's combined
9 reporting group in the same business unit as the qualified taxpayer
10 that, in the preceding calendar year, has produced a qualified
11 motion picture intended for release in the United States market.
12 For purposes of this clause, "qualified motion picture" shall not
13 include any episodes of a television series that were complete or
14 in production prior to July 1, 2016.

15 (II) Whether a qualified motion picture described in subclause
16 (I) was awarded any financial incentive by the state, province, or
17 other jurisdiction that was predicated on the performance of
18 primary principal photography or postproduction in that location.

19 (ii) The California Film Commission may provide that the report
20 required by this subparagraph be filed in a single report provided
21 on a calendar year basis for those qualified taxpayers that receive
22 multiple credit certificates in a calendar year.

23 (D) Issue a credit certificate to a qualified taxpayer upon
24 completion of the qualified motion picture reflecting the credit
25 amount allocated after qualified expenditures have been verified
26 and the jobs ratio computed under this section. The amount of
27 credit shown in the credit certificate shall not exceed the amount
28 of credit allocated to that qualified taxpayer pursuant to this section.

29 (4) Obtain, when possible, the following information from
30 applicants that do not receive an allocation of credit:

31 (A) Whether the qualified motion picture that was the subject
32 of the application was completed.

33 (B) If completed, in which state or foreign jurisdiction was the
34 primary principal photography completed.

35 (C) Whether the applicant received any financial incentives
36 from the state or foreign jurisdiction to make the qualified motion
37 picture in that location.

38 (5) Provide the Legislative Analyst's Office, upon request, any
39 or all application materials or any other materials received from,
40 or submitted by, the applicants, in electronic format when available,

1 including, but not limited to, information provided pursuant to
2 clauses (i) to (xi) inclusive, of subparagraph (A) of paragraph (2).

3 (6) The information provided to the California Film Commission
4 pursuant to this section shall constitute confidential tax information
5 for purposes of Article 2 (commencing with Section 19542) of
6 Chapter 7 of Part 10.2.

7 (h) (1) The California Film Commission shall annually provide
8 the Legislative Analyst's Office, the Franchise Tax Board, and the
9 board with a list of qualified taxpayers and the tax credit amounts
10 allocated to each qualified taxpayer by the California Film
11 Commission. The list shall include the names and taxpayer
12 identification numbers, including taxpayer identification numbers
13 of each partner or shareholder, as applicable, of the qualified
14 taxpayer.

15 (2) (A) Notwithstanding paragraph (6) of subdivision (g), the
16 California Film Commission shall annually post on its Internet
17 Web site and make available for public release the following:

18 (i) A table which includes all of the following information: a
19 list of qualified taxpayers and the tax credit amounts allocated to
20 each qualified taxpayer by the California Film Commission, the
21 number of production days in California the qualified taxpayer
22 represented in its application would occur, the number of California
23 jobs that the qualified taxpayer represented in its application would
24 be directly created by the production, and the total amount of
25 qualified expenditures expected to be spent by the production.

26 (ii) A narrative staff summary describing the production of the
27 qualified taxpayer as well as background information regarding
28 the qualified taxpayer contained in the qualified taxpayer's
29 application for the credit.

30 (B) Nothing in this subdivision shall be construed to make the
31 information submitted by an applicant for a tax credit under this
32 section a public record.

33 (3) The California Film Commission shall provide each city
34 and county in California with an instructional guide that includes,
35 but is not limited to, a review of best practices for facilitating
36 motion picture production in local jurisdictions, resources on
37 hosting and encouraging motion picture production, and the
38 California Film Commissions' Model Film Ordinance. The
39 California Film Commission shall maintain on its Internet Web
40 site a list of initiatives by locality that encourage motion picture

1 production in regions across the state. The list shall be distributed
2 to each approved applicant for the program to highlight local
3 jurisdictions that offer incentives to facilitate film production.

4 (i) (1) (A) The aggregate amount of credits that may be
5 allocated for ~~any a~~ fiscal year pursuant to this section and Section
6 23695 ~~shall be an amount equal to the sum of all of is the~~
7 *applicable amount described in the following, plus any amount*
8 *described in subparagraph (B), (C), or (D):*

9 ~~(A) Two hundred million dollars (\$200,000,000) in credits for~~
10 ~~the 2015–16 fiscal year.~~

11 ~~(i) Two hundred thirty million dollars (\$230,000,000) in credits~~
12 ~~for the 2015–16 fiscal year.~~

13 ~~(B) Four hundred million dollars (\$400,000,000)~~

14 ~~(ii) Three hundred thirty million dollars (\$330,000,000) in~~
15 ~~credits for the 2016–17 fiscal year and each fiscal year thereafter,~~
16 ~~through and including the 2018–19 2019–20 fiscal year.~~

17 ~~(C)~~

18 ~~(B) The unused allocation credit amount, if any, for the~~
19 ~~preceding fiscal year.~~

20 ~~(D)~~

21 ~~(C) The amount of previously allocated credits not certified.~~

22 ~~(E)~~

23 ~~(D) The amount of any credits reduced pursuant to paragraph~~
24 ~~(2) of subdivision (d).~~

25 (2) (A) Notwithstanding the foregoing, the California Film
26 Commission shall allocate the credit amounts subject to the
27 following categories:

28 (i) Independent films shall be allocated 5 percent of the amount
29 specified in paragraph (1).

30 (ii) Features shall be allocated 35 percent of the amount specified
31 in paragraph (1).

32 (iii) A relocating television series shall be allocated 20 percent
33 of the amount specified in paragraph (1).

34 (iv) A new television series, pilots for a new television series,
35 movies of the week, miniseries, and recurring television series
36 shall be allocated 40 percent of the amount specified in paragraph
37 (1).

38 ~~(B) (i) Within 60 days after the allocation period, any unused~~
39 ~~amount within a category or categories shall be apportioned to~~
40 ~~another category or categories with a higher demand.~~

1 (ii) ~~Notwithstanding the foregoing, at the end of the fiscal year,~~
2 ~~any unused amount within the allocation described in clause (iii)~~
3 ~~of subparagraph (A) shall be reallocated to the allocation described~~
4 ~~in clause (iv) of subparagraph (A).~~

5 (B) *Within 60 days after the allocation period, any unused*
6 *amount within a category or categories shall be first reallocated*
7 *to the category described in clause (iv) of subparagraph (A) and,*
8 *if any unused amount remains, reallocated to another category or*
9 *categories with a higher demand as determined by the California*
10 *Film Commission.*

11 (C) Notwithstanding the foregoing, the California Film
12 Commission may increase or decrease an allocation amount in
13 subparagraph (A) by 5 percent, if necessary, due to the jobs ratio,
14 the number of applications, or the allocation credit amounts
15 available by category compared to demand.

16 (D) With respect to a relocating television series issued a credit
17 in a subsequent year pursuant to clause (v) of subparagraph (D)
18 of paragraph (2) of subdivision (g), that subsequent credit amount
19 shall be ~~paid~~ *allowed* from the allocation amount described in
20 clause (iv) of subparagraph (A).

21 (3) Any act that reduces the amount that may be allocated
22 pursuant to paragraph (1) constitutes a change in state taxes for
23 the purpose of increasing revenues within the meaning of Section
24 3 of Article XIII A of the California Constitution and may be
25 passed by not less than two-thirds of all Members elected to each
26 of the two houses of the Legislature.

27 (j) The California Film Commission shall have the authority to
28 allocate tax credits in accordance with this section and in
29 accordance with any regulations prescribed pursuant to subdivision
30 (e) upon adoption.

31 ~~SEC. 7.~~

32 SEC. 6. Section 23036 of the Revenue and Taxation Code is
33 amended to read:

34 23036. (a) (1) The term “tax” includes any of the following:

35 (A) The tax imposed under Chapter 2 (commencing with Section
36 23101).

37 (B) The tax imposed under Chapter 3 (commencing with Section
38 23501).

39 (C) The tax on unrelated business taxable income, imposed
40 under Section 23731.

1 (D) The tax on “S” corporations imposed under Section 23802.

2 (2) The term “tax” does not include any amount imposed under
3 paragraph (1) of subdivision (e) of Section 24667 or paragraph (2)
4 of subdivision (f) of Section 24667.

5 (b) For purposes of Article 5 (commencing with Section 18661)
6 of Chapter 2, Article 3 (commencing with Section 19031) of
7 Chapter 4, Article 6 (commencing with Section 19101) of Chapter
8 4, and Chapter 7 (commencing with Section 19501) of Part 10.2,
9 and for purposes of Sections 18601, 19001, and 19005, the term
10 “tax” also includes all of the following:

11 (1) The tax on limited partnerships, imposed under Section
12 17935, the tax on limited liability companies, imposed under
13 Section 17941, and the tax on registered limited liability
14 partnerships and foreign limited liability partnerships imposed
15 under Section 17948.

16 (2) The alternative minimum tax imposed under Chapter 2.5
17 (commencing with Section 23400).

18 (3) The tax on built-in gains of “S” corporations, imposed under
19 Section 23809.

20 (4) The tax on excess passive investment income of “S”
21 corporations, imposed under Section 23811.

22 (c) Notwithstanding any other provision of this part, credits are
23 allowed against the “tax” in the following order:

24 (1) Credits that do not contain carryover provisions.

25 (2) Credits that, when the credit exceeds the “tax,” allow the
26 excess to be carried over to offset the “tax” in succeeding taxable
27 years, except for those credits that are allowed to reduce the “tax”
28 below the tentative minimum tax, as defined by Section 23455.
29 The order of credits within this paragraph shall be determined by
30 the Franchise Tax Board.

31 (3) The minimum tax credit allowed by Section 23453.

32 (4) Credits that are allowed to reduce the “tax” below the
33 tentative minimum tax, as defined by Section 23455.

34 (5) Credits for taxes withheld under Section 18662.

35 (d) Notwithstanding any other provision of this part, each of
36 the following applies:

37 (1) A credit may not reduce the “tax” below the tentative
38 minimum tax (as defined by paragraph (1) of subdivision (a) of
39 Section 23455), except the following credits:

- 1 (A) The credit allowed by former Section 23601 (relating to
2 solar energy).
- 3 (B) The credit allowed by former Section 23601.4 (relating to
4 solar energy).
- 5 (C) The credit allowed by former Section 23601.5 (relating to
6 solar energy).
- 7 (D) The credit allowed by Section 23609 (relating to research
8 expenditures).
- 9 (E) The credit allowed by former Section 23609.5 (relating to
10 clinical testing expenses).
- 11 (F) The credit allowed by Section 23610.5 (relating to
12 low-income housing).
- 13 (G) The credit allowed by former Section 23612 (relating to
14 sales and use tax credit).
- 15 (H) The credit allowed by Section 23612.2 (relating to enterprise
16 zone sales or use tax credit).
- 17 (I) The credit allowed by former Section 23612.6 (relating to
18 Los Angeles Revitalization Zone sales tax credit).
- 19 (J) The credit allowed by former Section 23622 (relating to
20 enterprise zone hiring credit).
- 21 (K) The credit allowed by Section 23622.7 (relating to enterprise
22 zone hiring credit).
- 23 (L) The credit allowed by former Section 23623 (relating to
24 program area hiring credit).
- 25 (M) The credit allowed by former Section 23623.5 (relating to
26 Los Angeles Revitalization Zone hiring credit).
- 27 (N) The credit allowed by former Section 23625 (relating to
28 Los Angeles Revitalization Zone hiring credit).
- 29 (O) The credit allowed by Section 23633 (relating to targeted
30 tax area sales or use tax credit).
- 31 (P) The credit allowed by Section 23634 (relating to targeted
32 tax area hiring credit).
- 33 (Q) The credit allowed by former Section 23649 (relating to
34 qualified property).
- 35 (R) For taxable years beginning on or after January 1, 2011, the
36 credit allowed by Section 23685 (relating to qualified motion
37 pictures).
- 38 (S) For taxable years beginning on or after January 1, 2016, the
39 credit allowed by Section 23695 (relating to qualified motion
40 pictures).

1 (2) A credit against the tax may not reduce the minimum
2 franchise tax imposed under Chapter 2 (commencing with Section
3 23101).

4 (e) Any credit which is partially or totally denied under
5 subdivision (d) is allowed to be carried over to reduce the “tax”
6 in the following year, and succeeding years if necessary, if the
7 provisions relating to that credit include a provision to allow a
8 carryover of the unused portion of that credit.

9 (f) Unless otherwise provided, any remaining carryover from a
10 credit that has been repealed or made inoperative is allowed to be
11 carried over under the provisions of that section as it read
12 immediately prior to being repealed or becoming inoperative.

13 (g) Unless otherwise provided, if two or more taxpayers share
14 in costs that would be eligible for a tax credit allowed under this
15 part, each taxpayer is eligible to receive the tax credit in proportion
16 to his or her respective share of the costs paid or incurred.

17 (h) Unless otherwise provided, in the case of an “S” corporation,
18 any credit allowed by this part is computed at the “S” corporation
19 level, and any limitation on the expenses qualifying for the credit
20 or limitation upon the amount of the credit applies to the “S”
21 corporation and to each shareholder.

22 (i) (1) With respect to any taxpayer that directly or indirectly
23 owns an interest in a business entity that is disregarded for tax
24 purposes pursuant to Section 23038 and any regulations thereunder,
25 the amount of any credit or credit carryforward allowable for any
26 taxable year attributable to the disregarded business entity is limited
27 in accordance with paragraphs (2) and (3).

28 (2) The amount of any credit otherwise allowed under this part,
29 including any credit carryover from prior years, that may be applied
30 to reduce the taxpayer’s “tax,” as defined in subdivision (a), for
31 the taxable year is limited to an amount equal to the excess of the
32 taxpayer’s regular tax (as defined in Section 23455), determined
33 by including income attributable to the disregarded business entity
34 that generated the credit or credit carryover, over the taxpayer’s
35 regular tax (as defined in Section 23455), determined by excluding
36 the income attributable to that disregarded business entity. A credit
37 is not allowed if the taxpayer’s regular tax (as defined in Section
38 23455), determined by including the income attributable to the
39 disregarded business entity is less than the taxpayer’s regular tax

(as defined in Section 23455), determined by excluding the income attributable to the disregarded business entity.

(3) If the amount of a credit allowed pursuant to the section establishing the credit exceeds the amount allowable under this subdivision in any taxable year, the excess amount may be carried over to subsequent taxable years pursuant to subdivisions (d), (e), and (f).

(j) (1) Unless otherwise specifically provided, in the case of a taxpayer that is a partner or shareholder of an eligible pass-thru entity described in paragraph (2), any credit passed through to the taxpayer in the taxpayer's first taxable year beginning on or after the date the credit is no longer operative may be claimed by the taxpayer in that taxable year, notwithstanding the repeal of the statute authorizing the credit prior to the close of that taxable year.

(2) For purposes of this subdivision, "eligible pass-thru entity" means any partnership or "S" corporation that files its return on a fiscal year basis pursuant to Section 18566, and that is entitled to a credit pursuant to this part for the taxable year that begins during the last year a credit is operative.

(3) This subdivision applies to credits that become inoperative on or after the operative date of the act adding this subdivision.

~~SEC. 7.5.~~

SEC. 6.5. Section 23036 of the Revenue and Taxation Code is amended to read:

23036. (a) (1) The term "tax" includes any of the following:

(A) The tax imposed under Chapter 2 (commencing with Section 23101).

(B) The tax imposed under Chapter 3 (commencing with Section 23501).

(C) The tax on unrelated business taxable income, imposed under Section 23731.

(D) The tax on "S" corporations imposed under Section 23802.

(2) The term "tax" does not include any amount imposed under paragraph (1) of subdivision (e) of Section 24667 or paragraph (2) of subdivision (f) of Section 24667.

(b) For purposes of Article 5 (commencing with Section 18661) of Chapter 2, Article 3 (commencing with Section 19031) of Chapter 4, Article 6 (commencing with Section 19101) of Chapter 4, and Chapter 7 (commencing with Section 19501) of Part 10.2,

1 and for purposes of Sections 18601, 19001, and 19005, the term
2 “tax” also includes all of the following:

3 (1) The tax on limited partnerships, imposed under Section
4 17935, the tax on limited liability companies, imposed under
5 Section 17941, and the tax on registered limited liability
6 partnerships and foreign limited liability partnerships imposed
7 under Section 17948.

8 (2) The alternative minimum tax imposed under Chapter 2.5
9 (commencing with Section 23400).

10 (3) The tax on built-in gains of “S” corporations, imposed under
11 Section 23809.

12 (4) The tax on excess passive investment income of S
13 corporations, imposed under Section 23811.

14 (c) Notwithstanding any other provision of this part, credits are
15 allowed against the “tax” in the following order:

16 (1) Credits that do not contain carryover provisions.

17 (2) Credits that, when the credit exceeds the “tax,” allow the
18 excess to be carried over to offset the “tax” in succeeding taxable
19 years, except for those credits that are allowed to reduce the “tax”
20 below the tentative minimum tax, as defined by Section 23455.
21 The order of credits within this paragraph shall be determined by
22 the Franchise Tax Board.

23 (3) The minimum tax credit allowed by Section 23453.

24 (4) Credits that are allowed to reduce the “tax” below the
25 tentative minimum tax, as defined by Section 23455.

26 (5) Credits for taxes withheld under Section 18662.

27 (d) Notwithstanding any other provision of this part, each of
28 the following applies:

29 (1) A credit may not reduce the “tax” below the tentative
30 minimum tax (as defined by paragraph (1) of subdivision (a) of
31 Section 23455), except the following credits:

32 (A) The credit allowed by former Section 23601 (relating to
33 solar energy).

34 (B) The credit allowed by former Section 23601.4 (relating to
35 solar energy).

36 (C) The credit allowed by former Section 23601.5 (relating to
37 solar energy).

38 (D) The credit allowed by Section 23609 (relating to research
39 expenditures).

- 1 (E) The credit allowed by former Section 23609.5 (relating to
2 clinical testing expenses).
- 3 (F) The credit allowed by Section 23610.5 (relating to
4 low-income housing).
- 5 (G) The credit allowed by former Section 23612 (relating to
6 sales and use tax credit).
- 7 (H) The credit allowed by Section 23612.2 (relating to enterprise
8 zone sales or use tax credit).
- 9 (I) The credit allowed by former Section 23612.6 (relating to
10 Los Angeles Revitalization Zone sales tax credit).
- 11 (J) The credit allowed by former Section 23622 (relating to
12 enterprise zone hiring credit).
- 13 (K) The credit allowed by Section 23622.7 (relating to enterprise
14 zone hiring credit).
- 15 (L) The credit allowed by former Section 23623 (relating to
16 program area hiring credit).
- 17 (M) The credit allowed by former Section 23623.5 (relating to
18 Los Angeles Revitalization Zone hiring credit).
- 19 (N) The credit allowed by former Section 23625 (relating to
20 Los Angeles Revitalization Zone hiring credit).
- 21 (O) The credit allowed by Section 23633 (relating to targeted
22 tax area sales or use tax credit).
- 23 (P) The credit allowed by Section 23634 (relating to targeted
24 tax area hiring credit).
- 25 (Q) The credit allowed by former Section 23649 (relating to
26 qualified property).
- 27 (R) For taxable years beginning on or after January 1, 2011, the
28 credit allowed by Section 23685 (relating to qualified motion
29 pictures).
- 30 (S) For taxable years beginning on or after January 1, 2014, the
31 credit allowed by Section 23689 (relating to GO-Biz California
32 Competes Credit).
- 33 (T) For taxable years beginning on or after January 1, 2016, the
34 credit allowed by Section 23695 (relating to qualified motion
35 pictures).
- 36 (2) A credit against the tax may not reduce the minimum
37 franchise tax imposed under Chapter 2 (commencing with Section
38 23101).
- 39 (e) Any credit which is partially or totally denied under
40 subdivision (d) is allowed to be carried over to reduce the “tax”

1 in the following year, and succeeding years if necessary, if the
2 provisions relating to that credit include a provision to allow a
3 carryover of the unused portion of that credit.

4 (f) Unless otherwise provided, any remaining carryover from a
5 credit that has been repealed or made inoperative is allowed to be
6 carried over under the provisions of that section as it read
7 immediately prior to being repealed or becoming inoperative.

8 (g) Unless otherwise provided, if two or more taxpayers share
9 in costs that would be eligible for a tax credit allowed under this
10 part, each taxpayer is eligible to receive the tax credit in proportion
11 to his or her respective share of the costs paid or incurred.

12 (h) Unless otherwise provided, in the case of an “S” corporation,
13 any credit allowed by this part is computed at the “S” corporation
14 level, and any limitation on the expenses qualifying for the credit
15 or limitation upon the amount of the credit applies to the “S”
16 corporation and to each shareholder.

17 (i) (1) With respect to any taxpayer that directly or indirectly
18 owns an interest in a business entity that is disregarded for tax
19 purposes pursuant to Section 23038 and any regulations thereunder,
20 the amount of any credit or credit carryforward allowable for any
21 taxable year attributable to the disregarded business entity is limited
22 in accordance with paragraphs (2) and (3).

23 (2) The amount of any credit otherwise allowed under this part,
24 including any credit carryover from prior years, that may be applied
25 to reduce the taxpayer’s “tax,” as defined in subdivision (a), for
26 the taxable year is limited to an amount equal to the excess of the
27 taxpayer’s regular tax (as defined in Section 23455), determined
28 by including income attributable to the disregarded business entity
29 that generated the credit or credit carryover, over the taxpayer’s
30 regular tax (as defined in Section 23455), determined by excluding
31 the income attributable to that disregarded business entity. A credit
32 is not allowed if the taxpayer’s regular tax (as defined in Section
33 23455), determined by including the income attributable to the
34 disregarded business entity is less than the taxpayer’s regular tax
35 (as defined in Section 23455), determined by excluding the income
36 attributable to the disregarded business entity.

37 (3) If the amount of a credit allowed pursuant to the section
38 establishing the credit exceeds the amount allowable under this
39 subdivision in any taxable year, the excess amount may be carried

1 over to subsequent taxable years pursuant to subdivisions (d), (e),
2 and (f).

3 (j) (1) Unless otherwise specifically provided, in the case of a
4 taxpayer that is a partner or shareholder of an eligible pass-thru
5 entity described in paragraph (2), any credit passed through to the
6 taxpayer in the taxpayer's first taxable year beginning on or after
7 the date the credit is no longer operative may be claimed by the
8 taxpayer in that taxable year, notwithstanding the repeal of the
9 statute authorizing the credit prior to the close of that taxable year.

10 (2) For purposes of this subdivision, "eligible pass-thru entity"
11 means any partnership or "S" corporation that files its return on a
12 fiscal year basis pursuant to Section 18566, and that is entitled to
13 a credit pursuant to this part for the taxable year that begins during
14 the last year a credit is operative.

15 (3) This subdivision applies to credits that become inoperative
16 on or after the operative date of the act adding this subdivision.

17 ~~SEC. 8. Section 23685 of the Revenue and Taxation Code is~~
18 ~~amended to read:~~

19 ~~23685. (a) (1) For taxable years beginning on or after January~~
20 ~~1, 2011, there shall be allowed to a qualified taxpayer a credit~~
21 ~~against the "tax," as defined in Section 23036, in an amount equal~~
22 ~~to the applicable percentage, as specified in paragraph (4), of the~~
23 ~~qualified expenditures for the production of a qualified motion~~
24 ~~picture in California.~~

25 ~~(2) The credit shall be allowed for the taxable year in which the~~
26 ~~California Film Commission issues the credit certificate pursuant~~
27 ~~to subdivision (g) for the qualified motion picture, and shall be for~~
28 ~~the applicable percentage of all qualified expenditures paid or~~
29 ~~incurred by the qualified taxpayer in all taxable years for that~~
30 ~~qualified motion picture.~~

31 ~~(3) The amount of the credit allowed to a qualified taxpayer~~
32 ~~shall be limited to the amount specified in the credit certificate~~
33 ~~issued to the qualified taxpayer by the California Film Commission~~
34 ~~pursuant to subdivision (g).~~

35 ~~(4) For purposes of paragraphs (1) and (2), the applicable~~
36 ~~percentage shall be:~~

37 ~~(A) Twenty percent of the qualified expenditures attributable~~
38 ~~to the production of a qualified motion picture in California.~~

39 ~~(B) Twenty-five percent of the qualified expenditures~~
40 ~~attributable to the production of a qualified motion picture in~~

1 California where the qualified motion picture is a television series
2 that relocated to California or an independent film.

3 (b) For purposes of this section:

4 (1) “Ancillary product” means any article for sale to the public
5 that contains a portion of, or any element of, the qualified motion
6 picture.

7 (2) “Budget” means an estimate of all expenses paid or incurred
8 during the production period of a qualified motion picture. It shall
9 be the same budget used by the qualified taxpayer and production
10 company for all qualified motion picture purposes.

11 (3) “Clip use” means a use of any portion of a motion picture,
12 other than the qualified motion picture, used in the qualified motion
13 picture.

14 (4) “Credit certificate” means the certificate issued by the
15 California Film Commission pursuant to subparagraph (C) of
16 paragraph (2) of subdivision (g).

17 (5) (A) “Employee fringe benefits” means the amount allowable
18 as a deduction under this part to the qualified taxpayer involved
19 in the production of the qualified motion picture, exclusive of any
20 amounts contributed by employees, for any year during the
21 production period with respect to any of the following:

22 (i) Employer contributions under any pension, profit-sharing,
23 annuity, or similar plan.

24 (ii) Employer-provided coverage under any accident or health
25 plan for employees.

26 (iii) The employer’s cost of life or disability insurance provided
27 to employees.

28 (B) Any amount treated as wages under clause (i) of
29 subparagraph (A) of paragraph (18) shall not be taken into account
30 under this paragraph.

31 (6) “Independent film” means a motion picture with a minimum
32 budget of one million dollars (\$1,000,000) and a maximum budget
33 of ten million dollars (\$10,000,000) that is produced by a company
34 that is not publicly traded and publicly traded companies do not
35 own, directly or indirectly, more than 25 percent of the producing
36 company.

37 (7) “Licensing” means any grant of rights to distribute the
38 qualified motion picture, in whole or in part.

39 (8) “New use” means any use of a motion picture in a medium
40 other than the medium for which it was initially created.

1 (9) (A) “Postproduction” means the final activities in a qualified
2 motion picture’s production, including editing, foley recording,
3 automatic dialogue replacement, sound editing, scoring and music
4 editing, beginning and end credits, negative cutting, negative
5 processing and duplication, the addition of sound and visual effects,
6 soundmixing, film-to-tape transfers, encoding, and color correction.

7 (B) “Postproduction” does not include the manufacture or
8 shipping of release prints.

9 (10) “Preproduction” means the process of preparation for actual
10 physical production which begins after a qualified motion picture
11 has received a firm agreement of financial commitment, or is
12 greenlit, with, for example, the establishment of a dedicated
13 production office, the hiring of key crew members, and includes,
14 but is not limited to, activities that include location scouting and
15 execution of contracts with vendors of equipment and stage space.

16 (11) “Principal photography” means the phase of production
17 during which the motion picture is actually shot, as distinguished
18 from preproduction and postproduction.

19 (12) “Production period” means the period beginning with
20 preproduction and ending upon completion of postproduction.

21 (13) “Qualified entity” means a personal service corporation as
22 defined in Section 269A(b)(1) of the Internal Revenue Code, a
23 payroll services corporation, or any entity receiving qualified wages
24 with respect to services performed by a qualified individual.

25 (14) (A) “Qualified individual” means any individual who
26 performs services during the production period in an activity related
27 to the production of a qualified motion picture.

28 (B) “Qualified individual” shall not include either of the
29 following:

30 (i) Any individual related to the qualified taxpayer as described
31 in subparagraph (A), (B), or (C) of Section 51(i)(1) of the Internal
32 Revenue Code.

33 (ii) Any 5-percent owner, as defined in Section 416(i)(1)(B) of
34 the Internal Revenue Code, of the qualified taxpayer.

35 (15) (A) “Qualified motion picture” means a motion picture
36 that is produced for distribution to the general public, regardless
37 of medium, that is one of the following:

38 (i) A feature with a minimum production budget of one million
39 dollars (\$1,000,000) and a maximum production budget of
40 seventy-five million dollars (\$75,000,000).

1 ~~(ii) A movie of the week or miniseries with a minimum~~
2 ~~production budget of five hundred thousand dollars (\$500,000).~~

3 ~~(iii) A new television series produced in California with a~~
4 ~~minimum production budget of one million dollars (\$1,000,000)~~
5 ~~licensed for original distribution on basic cable.~~

6 ~~(iv) An independent film.~~

7 ~~(v) A television series that relocated to California.~~

8 ~~(B) To qualify as a “qualified motion picture,” all of the~~
9 ~~following conditions shall be satisfied:~~

10 ~~(i) At least 75 percent of the production days occur wholly in~~
11 ~~California or 75 percent of the production budget is incurred for~~
12 ~~payment for services performed within the state and the purchase~~
13 ~~or rental of property used within the state.~~

14 ~~(ii) Production of the qualified motion picture is completed~~
15 ~~within 30 months from the date on which the qualified taxpayer’s~~
16 ~~application is approved by the California Film Commission. For~~
17 ~~purposes of this section, a qualified motion picture is “completed”~~
18 ~~when the process of postproduction has been finished.~~

19 ~~(iii) The copyright for the motion picture is registered with the~~
20 ~~United States Copyright Office pursuant to Title 17 of the United~~
21 ~~States Code.~~

22 ~~(iv) Principal photography of the qualified motion picture~~
23 ~~commences after the date on which the application is approved by~~
24 ~~the California Film Commission, but no later than 180 days after~~
25 ~~the date of that approval.~~

26 ~~(C) For the purposes of subparagraph (A), in computing the~~
27 ~~total wages paid or incurred for the production of a qualified~~
28 ~~motion picture, all amounts paid or incurred by all persons or~~
29 ~~entities that share in the costs of the qualified motion picture shall~~
30 ~~be aggregated.~~

31 ~~(D) “Qualified motion picture” shall not include commercial~~
32 ~~advertising, music videos, a motion picture produced for private~~
33 ~~noncommercial use, such as weddings, graduations, or as part of~~
34 ~~an educational course and made by students, a news program,~~
35 ~~current events or public events program, talk show, game show,~~
36 ~~sporting event or activity, awards show, telethon or other~~
37 ~~production that solicits funds, reality television program, clip-based~~
38 ~~programming if more than 50 percent of the content is comprised~~
39 ~~of licensed footage, documentaries, variety programs, daytime~~
40 ~~dramas, strip shows, one-half hour (air time) episodic television~~

1 shows, or any production that falls within the recordkeeping
2 requirements of Section 2257 of Title 18 of the United States Code.

3 (16) “Qualified expenditures” means amounts paid or incurred
4 to purchase or lease tangible personal property used within this
5 state in the production of a qualified motion picture and payments,
6 including qualified wages, for services performed within this state
7 in the production of a qualified motion picture.

8 (17) (A) “Qualified taxpayer” means a taxpayer who has paid
9 or incurred qualified expenditures and has been issued a credit
10 certificate by the California Film Commission pursuant to
11 subdivision (g).

12 (B) (i) In the case of any pass-thru entity, the determination of
13 whether a taxpayer is a qualified taxpayer under this section shall
14 be made at the entity level and any credit under this section is not
15 allowed to the pass-thru entity, but shall be passed through to the
16 partners or shareholders in accordance with applicable provisions
17 of Part 10 (commencing with Section 17001) or Part 11
18 (commencing with Section 23001). For purposes of this paragraph,
19 “pass-thru entity” means any entity taxed as a partnership or “S”
20 corporation.

21 (ii) In the case of an “S” corporation, the credit allowed under
22 this section shall not be used by an “S” corporation as a credit
23 against a tax imposed under Chapter 4.5 (commencing with Section
24 23800) of Part 11 of Division 2.

25 (18) (A) “Qualified wages” means all of the following:

26 (i) Any wages subject to withholding under Division 6
27 (commencing with Section 13000) of the Unemployment Insurance
28 Code that were paid or incurred by any taxpayer involved in the
29 production of a qualified motion picture with respect to a qualified
30 individual for services performed on the qualified motion picture
31 production within this state.

32 (ii) The portion of any employee fringe benefits paid or incurred
33 by any taxpayer involved in the production of the qualified motion
34 picture that are properly allocable to qualified wage amounts
35 described in clause (i).

36 (iii) Any payments made to a qualified entity for services
37 performed in this state by qualified individuals within the meaning
38 of paragraph (14).

1 ~~(iv) Remuneration paid to an independent contractor who is a~~
2 ~~qualified individual for services performed within this state by that~~
3 ~~qualified individual.~~

4 ~~(B) “Qualified wages” shall not include any of the following:~~

5 ~~(i) Expenses, including wages, related to new use, reuse, clip~~
6 ~~use, licensing, secondary markets, or residual compensation, or~~
7 ~~the creation of any ancillary product, including, but not limited to,~~
8 ~~a soundtrack album, toy, game, trailer, or teaser.~~

9 ~~(ii) Expenses, including wages, paid or incurred with respect to~~
10 ~~acquisition, development, turnaround, or any rights thereto.~~

11 ~~(iii) Expenses, including wages, related to financing, overhead,~~
12 ~~marketing, promotion, or distribution of a qualified motion picture.~~

13 ~~(iv) Expenses, including wages, paid per person per qualified~~
14 ~~motion picture for writers, directors, music directors, music~~
15 ~~composers, music supervisors, producers, and performers, other~~
16 ~~than background actors with no scripted lines.~~

17 ~~(19) “Residual — compensation” — means — supplemental~~
18 ~~compensation paid at the time that a motion picture is exhibited~~
19 ~~through new use, reuse, clip use, or in secondary markets, as~~
20 ~~distinguished from payments made during production.~~

21 ~~(20) “Reuse” means any use of a qualified motion picture in the~~
22 ~~same medium for which it was created, following the initial use~~
23 ~~in that medium.~~

24 ~~(21) “Secondary markets” means media in which a qualified~~
25 ~~motion picture is exhibited following the initial media in which it~~
26 ~~is exhibited.~~

27 ~~(22) “Television series that relocated to California” means a~~
28 ~~television series, without regard to episode length or initial media~~
29 ~~exhibition, that filmed all of its prior season or seasons outside of~~
30 ~~California and for which the taxpayer certifies that the credit~~
31 ~~provided pursuant to this section is the primary reason for~~
32 ~~relocating to California.~~

33 ~~(e) (1) Notwithstanding subdivision (i) of Section 23036, in~~
34 ~~the case where the credit allowed by this section exceeds the~~
35 ~~taxpayer’s tax liability computed under this part, a qualified~~
36 ~~taxpayer may elect to assign any portion of the credit allowed~~
37 ~~under this section to one or more affiliated corporations for each~~
38 ~~taxable year in which the credit is allowed. For purposes of this~~
39 ~~subdivision, “affiliated corporation” has the meaning provided in~~
40 ~~subdivision (b) of Section 25110, as that section was amended by~~

Chapter 881 of the Statutes of 1993, as of the last day of the taxable year in which the credit is allowed, except that “100 percent” is substituted for “more than 50 percent” wherever it appears in the section, and “voting common stock” is substituted for “voting stock” wherever it appears in the section.

(2) ~~The election provided in paragraph (1):~~

(A) ~~May be based on any method selected by the qualified taxpayer that originally receives the credit.~~

(B) ~~Shall be irrevocable for the taxable year the credit is allowed, once made.~~

(C) ~~May be changed for any subsequent taxable year if the election to make the assignment is expressly shown on each of the returns of the qualified taxpayer and the qualified taxpayer’s affiliated corporations that assign and receive the credits.~~

(D) ~~Shall be reported to the Franchise Tax Board, in the form and manner specified by the Franchise Tax Board, along with all required information regarding the assignment of the credit, including the corporation number, the federal employer identification number, or other taxpayer identification number of the assignee, and the amount of the credit assigned.~~

(3) (A) ~~Notwithstanding any other law, a qualified taxpayer may sell any credit allowed under this section that is attributable to an independent film, as defined in paragraph (6) of subdivision (b), to an unrelated party.~~

(B) ~~The qualified taxpayer shall report to the Franchise Tax Board prior to the sale of the credit, in the form and manner specified by the Franchise Tax Board, all required information regarding the purchase and sale of the credit, including the social security or other taxpayer identification number of the unrelated party to whom the credit has been sold, the face amount of the credit sold, and the amount of consideration received by the qualified taxpayer for the sale of the credit.~~

(4) ~~In the case where the credit allowed under this section exceeds the “tax,” the excess credit may be carried over to reduce the “tax” in the following taxable year, and succeeding five taxable years, if necessary, until the credit has been exhausted.~~

(5) ~~A credit shall not be sold pursuant to this subdivision to more than one taxpayer, nor may the credit be resold by the unrelated party to another taxpayer or other party.~~

1 ~~(6) A party that has been assigned or acquired tax credits under~~
2 ~~this paragraph shall be subject to the requirements of this section.~~

3 ~~(7) In no event may a qualified taxpayer assign or sell any tax~~
4 ~~credit to the extent the tax credit allowed by this section is claimed~~
5 ~~on any tax return of the qualified taxpayer.~~

6 ~~(8) In the event that both the taxpayer originally allocated a~~
7 ~~credit under this section by the California Film Commission and~~
8 ~~a taxpayer to whom the credit has been sold both claim the same~~
9 ~~amount of credit on their tax returns, the Franchise Tax Board may~~
10 ~~disallow the credit of either taxpayer, so long as the statute of~~
11 ~~limitations upon assessment remains open.~~

12 ~~(9) Chapter 3.5 (commencing with Section 11340) of Part 1 of~~
13 ~~Division 3 of Title 2 of the Government Code does not apply to~~
14 ~~any standard, criterion, procedure, determination, rule, notice, or~~
15 ~~guideline established or issued by the Franchise Tax Board~~
16 ~~pursuant to this subdivision.~~

17 ~~(10) Subdivision (i) of Section 23036 shall not apply to any~~
18 ~~credit sold pursuant to this subdivision.~~

19 ~~(11) For purposes of this subdivision:~~

20 ~~(A) An affiliated corporation or corporations that are assigned~~
21 ~~a credit pursuant to paragraph (1) shall be treated as a qualified~~
22 ~~taxpayer pursuant to paragraph (1) of subdivision (a).~~

23 ~~(B) The unrelated party or parties that purchase a credit pursuant~~
24 ~~to paragraph (3) shall be treated as a qualified taxpayer pursuant~~
25 ~~to paragraph (1) of subdivision (a).~~

26 ~~(d) No credit shall be allowed pursuant to this section unless~~
27 ~~the qualified taxpayer provides the following to the California~~
28 ~~Film Commission:~~

29 ~~(1) Identification of each qualified individual.~~

30 ~~(2) The specific start and end dates of production.~~

31 ~~(3) The total wages paid.~~

32 ~~(4) The amount of qualified wages paid to each qualified~~
33 ~~individual.~~

34 ~~(5) The copyright registration number, as reflected on the~~
35 ~~certificate of registration issued under the authority of Section 410~~
36 ~~of Title 17 of the United States Code, relating to registration of~~
37 ~~claim and issuance of certificate. The registration number shall be~~
38 ~~provided on the return claiming the credit.~~

1 ~~(6) The total amounts paid or incurred to purchase or lease~~
2 ~~tangible personal property used in the production of a qualified~~
3 ~~motion picture.~~

4 ~~(7) Information to substantiate its qualified expenditures.~~

5 ~~(8) Information required by the California Film Commission~~
6 ~~under regulations promulgated pursuant to subdivision (g)~~
7 ~~necessary to verify the amount of credit claimed.~~

8 ~~(e) The California Film Commission may prescribe rules and~~
9 ~~regulations to carry out the purposes of this section including any~~
10 ~~rules and regulations necessary to establish procedures, processes,~~
11 ~~requirements, and rules identified in or required to implement this~~
12 ~~section. The regulations shall include provisions to set aside a~~
13 ~~percentage of annual credit allocations for independent films.~~

14 ~~(f) If the qualified taxpayer fails to provide the copyright~~
15 ~~registration number as required in paragraph (5) of subdivision~~
16 ~~(d), the credit shall be disallowed and assessed and collected under~~
17 ~~Section 19051 until the procedures are satisfied.~~

18 ~~(g) For purposes of this section, the California Film Commission~~
19 ~~shall do the following:~~

20 ~~(1) On or after July 1, 2009, and before July 1, 2017, allocate~~
21 ~~tax credits to applicants.~~

22 ~~(A) Establish a procedure for applicants to file with the~~
23 ~~California Film Commission a written application, on a form jointly~~
24 ~~prescribed by the California Film Commission and the Franchise~~
25 ~~Tax Board for the allocation of the tax credit. The application shall~~
26 ~~include, but not be limited to, the following information:~~

27 ~~(i) The budget for the motion picture production.~~

28 ~~(ii) The number of production days.~~

29 ~~(iii) A financing plan for the production.~~

30 ~~(iv) The diversity of the workforce employed by the applicant,~~
31 ~~including, but not limited to, the ethnic and racial makeup of the~~
32 ~~individuals employed by the applicant during the production of~~
33 ~~the qualified motion picture, to the extent possible.~~

34 ~~(v) All members of a combined reporting group, if known at~~
35 ~~the time of the application.~~

36 ~~(vi) Financial information, if available, including, but not limited~~
37 ~~to, the most recently produced balance sheets, annual statements~~
38 ~~of profits and losses, audited or unaudited financial statements,~~
39 ~~summary budget projections or results, or the functional equivalent~~
40 ~~of these documents of a partnership or owner of a single member~~

1 ~~limited liability company that is disregarded pursuant to Section~~
2 ~~23038. The information provided pursuant to this clause shall be~~
3 ~~confidential and shall not be subject to public disclosure.~~

4 ~~(vii) The names of all partners in a partnership not publicly~~
5 ~~traded or the names of all members of a limited liability company~~
6 ~~classified as a partnership not publicly traded for California income~~
7 ~~tax purposes that have a financial interest in the applicant's~~
8 ~~qualified motion picture. The information provided pursuant to~~
9 ~~this clause shall be confidential and shall not be subject to public~~
10 ~~disclosure.~~

11 ~~(viii) Detailed narratives, for use only by the Legislative~~
12 ~~Analyst's Office in conducting a study of the effectiveness of this~~
13 ~~credit, that describe the extent to which the credit is expected to~~
14 ~~influence or affect filming and other business location decisions;~~
15 ~~hiring decisions, salary decisions, and any other financial matters~~
16 ~~of the applicant.~~

17 ~~(ix) Any other information deemed relevant by the California~~
18 ~~Film Commission or the Franchise Tax Board.~~

19 ~~(B) Establish criteria, consistent with the requirements of this~~
20 ~~section, for allocating tax credits.~~

21 ~~(C) Determine and designate applicants who meet the~~
22 ~~requirements of this section.~~

23 ~~(D) Process and approve, or reject, all applications on a~~
24 ~~first-come-first-served basis.~~

25 ~~(E) Subject to the annual cap established as provided in~~
26 ~~subdivision (i), allocate an aggregate amount of credits under this~~
27 ~~section and Section 17053.85, and allocate any carryover of~~
28 ~~unallocated credits from prior years.~~

29 ~~(2) Certify tax credits allocated to qualified taxpayers.~~

30 ~~(A) Establish a verification procedure for the amount of qualified~~
31 ~~expenditures paid or incurred by the applicant, including, but not~~
32 ~~limited to, updates to the information in subparagraph (A) of~~
33 ~~paragraph (1) of subdivision (g).~~

34 ~~(B) Establish audit requirements that must be satisfied before~~
35 ~~a credit certificate may be issued by the California Film~~
36 ~~Commission.~~

37 ~~(C) (i) Establish a procedure for a qualified taxpayer to report~~
38 ~~to the California Film Commission, prior to the issuance of a credit~~
39 ~~certificate, the following information:~~

1 ~~(I) If readily available, a list of the states, provinces, or other~~
2 ~~jurisdictions in which any member of the applicant's combined~~
3 ~~reporting group in the same business unit as the qualified taxpayer~~
4 ~~that, in the preceeding calendar year, has produced a qualified~~
5 ~~motion picture intended for release in the United States market.~~
6 ~~For purposes of this clause, "qualified motion picture" shall not~~
7 ~~include any episodes of a television series that were complete or~~
8 ~~in production prior to July 1, 2009.~~

9 ~~(II) Whether a qualified motion picture described in subelause~~
10 ~~(I) was awarded any financial incentive by the state, province, or~~
11 ~~other jurisdiction that was predicated on the performance of~~
12 ~~primary principal photography or postproduction in that location.~~

13 ~~(ii) The California Film Commission may provide that the report~~
14 ~~required by this subparagraph be filed in a single report provided~~
15 ~~on a calendar year basis for those qualified taxpayers that receive~~
16 ~~multiple credit certificates in a calendar year.~~

17 ~~(D) Issue a credit certificate to a qualified taxpayer upon~~
18 ~~completion of the qualified motion picture reflecting the credit~~
19 ~~amount allocated after qualified expenditures have been verified~~
20 ~~under this section. The amount of credit shown in the credit~~
21 ~~certificate shall not exceed the amount of credit allocated to that~~
22 ~~qualified taxpayer pursuant to this section.~~

23 ~~(3) Obtain, when possible, the following information from~~
24 ~~applicants that do not receive an allocation of credit:~~

25 ~~(A) Whether the qualified motion picture that was the subject~~
26 ~~of the application was completed.~~

27 ~~(B) If completed, in which state or foreign jurisdiction was the~~
28 ~~primary principal photography completed.~~

29 ~~(C) Whether the applicant received any financial incentives~~
30 ~~from the state or foreign jurisdiction to make the qualified motion~~
31 ~~picture in that location.~~

32 ~~(4) Provide the Legislative Analyst's Office, upon request, any~~
33 ~~or all application materials or any other materials received from,~~
34 ~~or submitted by, the applicants, in electronic format when available,~~
35 ~~including, but not limited to, information provided pursuant to~~
36 ~~clauses (i) to (ix), inclusive, of subparagraph (A) of paragraph (1).~~

37 ~~(5) The information provided to the California Film Commission~~
38 ~~pursuant to this section shall constitute confidential tax information~~
39 ~~for purposes of Article 2 (commencing with Section 19542) of~~
40 ~~Chapter 7 of Part 10.2.~~

1 ~~(h) (1) The California Film Commission shall annually provide~~
2 ~~the Legislative Analyst's Office, the Franchise Tax Board, and the~~
3 ~~board with a list of qualified taxpayers and the tax credit amounts~~
4 ~~allocated to each qualified taxpayer by the California Film~~
5 ~~Commission. The list shall include the names and taxpayer~~
6 ~~identification numbers, including taxpayer identification numbers~~
7 ~~of each partner or shareholder, as applicable, of the qualified~~
8 ~~taxpayer.~~

9 ~~(2) (A) Notwithstanding paragraph (5) of subdivision (g), the~~
10 ~~California Film Commission shall annually post on its Internet~~
11 ~~Web site and make available for public release the following:~~

12 ~~(i) A table which includes all of the following information: a~~
13 ~~list of qualified taxpayers and the tax credit amounts allocated to~~
14 ~~each qualified taxpayer by the California Film Commission, the~~
15 ~~number of production days in California the qualified taxpayer~~
16 ~~represented in its application would occur, the number of California~~
17 ~~jobs that the qualified taxpayer represented in its application would~~
18 ~~be directly created by the production, and the total amount of~~
19 ~~qualified expenditures expected to be spent by the production.~~

20 ~~(ii) A narrative staff summary describing the production of the~~
21 ~~qualified taxpayer as well as background information regarding~~
22 ~~the qualified taxpayer contained in the qualified taxpayer's~~
23 ~~application for the credit.~~

24 ~~(B) Nothing in this subdivision shall be construed to make the~~
25 ~~information submitted by an applicant for a tax credit under this~~
26 ~~section a public record.~~

27 ~~(i) (1) The aggregate amount of credits that may be allocated~~
28 ~~in any fiscal year pursuant to this section and Section 17053.85~~
29 ~~shall be an amount equal to the sum of all of the following:~~

30 ~~(A) One hundred million dollars (\$100,000,000) in credits for~~
31 ~~the 2009-10 fiscal year and each fiscal year thereafter, through~~
32 ~~and including the 2014-15 fiscal year.~~

33 ~~(B) In addition to the amounts specified in subparagraph (A),~~
34 ~~one hundred million dollars (\$100,000,000) in the aggregate~~
35 ~~amount of credits that may be allocated for the 2015-16 and~~
36 ~~2016-17 fiscal years.~~

37 ~~(C) The unused allocation credit amount, if any, for the~~
38 ~~preceding fiscal year.~~

39 ~~(D) The amount of previously allocated credits not certified.~~

1 ~~(2) If the amount of credits applied for in any particular fiscal~~
2 ~~year exceeds the aggregate amount of tax credits authorized to be~~
3 ~~allocated under this section, such excess shall be treated as having~~
4 ~~been applied for on the first day of the subsequent fiscal year.~~
5 ~~However, credits may not be allocated from a fiscal year other~~
6 ~~than the fiscal year in which the credit was originally applied for~~
7 ~~or the immediately succeeding fiscal year.~~

8 ~~(3) Notwithstanding the foregoing, the California Film~~
9 ~~Commission shall set aside up to ten million dollars (\$10,000,000)~~
10 ~~of tax credits each fiscal year for independent films allocated in~~
11 ~~accordance with rules and regulations developed pursuant to~~
12 ~~subdivision (e).~~

13 ~~(4) Any act that reduces the amount that may be allocated~~
14 ~~pursuant to paragraph (1) constitutes a change in state taxes for~~
15 ~~the purpose of increasing revenues within the meaning of Section~~
16 ~~3 of Article XIII A of the California Constitution and may be passed~~
17 ~~by not less than two-thirds of all Members elected to each of the~~
18 ~~two houses of the Legislature.~~

19 ~~(j) The California Film Commission shall have the authority to~~
20 ~~allocate tax credits in accordance with this section and in~~
21 ~~accordance with any regulations prescribed pursuant to subdivision~~
22 ~~(e) upon adoption.~~

23 ~~SEC. 9.~~

24 ~~SEC. 7.~~ Section 23695 is added to the Revenue and Taxation
25 Code, to read:

26 23695. (a) (1) For taxable years beginning on or after January
27 1, 2016, there shall be allowed to a qualified taxpayer a credit
28 against the “tax,” as defined in Section 23036, subject to a
29 computation and ranking by the California Film Commission in
30 subdivision (g) and the allocation amount categories described in
31 subdivision (i), in an amount equal to 20 percent or 25 percent,
32 whichever is the applicable credit percentage described in
33 paragraph (4), of the qualified expenditures for the production of
34 a qualified motion picture in California. A credit shall not be
35 allowed under this section for any qualified expenditures for the
36 production of a motion picture in California if a credit has been
37 claimed for those same expenditures under Section 23685.

38 (2) ~~The~~ *Except as otherwise provided in this section, the* credit
39 shall be allowed for the taxable year in which the California Film
40 Commission issues the credit certificate pursuant to subdivision

(g) for the qualified motion picture, but in no instance prior to July 1, 2016, and shall be for the applicable percentage of all qualified expenditures paid or incurred by the qualified taxpayer in all taxable years for that qualified motion picture.

(3) The amount of the credit allowed to a qualified taxpayer shall be limited to the amount specified in the credit certificate issued to the qualified taxpayer by the California Film Commission pursuant to subdivision (g).

(4) For purposes of paragraphs (1) and (2), the applicable credit percentage shall be:

(A) Twenty percent of the qualified expenditures attributable to the production of a qualified motion picture in California, including, but not limited to, a feature, up to one hundred million dollars (\$100,000,000) in qualified expenditures, or a television series that relocated to California that is in its second or subsequent years of receiving a tax credit allocation pursuant to this section or Section 23685.

(B) Twenty-five percent of the qualified expenditures attributable to the production of a qualified motion picture in California where the qualified motion picture is a television series that relocated to California in its first year of receiving a tax credit allocation pursuant to this section.

(C) Twenty-five percent of the qualified expenditures, up to ten million dollars (\$10,000,000), attributable to the production of a qualified motion picture that is an independent film.

~~(D) (i) In order to carry out subparagraph (D) of paragraph (2) of subdivision (d), the California Film Commission shall increase the applicable credit percentage by 5 percent, not to exceed a maximum of 25 percent of qualified expenditures relating to original photography outside the Los Angeles zone.~~

(D) Additional credits shall be allowed to a qualified motion picture whose applicable credit percentage is determined pursuant to subparagraph (A), in an aggregate amount not to exceed 5 percent of the qualified expenditures under that subparagraph, as follows:

(i) (I) Five percent of qualified expenditures relating to original photography outside the Los Angeles zone.

~~(ii)~~

~~(II) For purposes of this subparagraph:~~ *clause:*

~~(i)~~

1 ~~(ia)~~ “Applicable period” means the period that commences with
2 preproduction and ends when original photography concludes. The
3 applicable period includes the time necessary to strike a remote
4 location and return to the Los Angeles zone.

5 ~~(H)~~

6 ~~(ib)~~ “Los Angeles zone” means the area within a circle 30 miles
7 in radius from Beverly Boulevard and La Cienega Boulevard, Los
8 Angeles, California, and includes Agua Dulce, Castaic, including
9 Lake Castaic, Leo Carillo State Beach, Ontario International
10 Airport, Piru, and Pomona, including the Los Angeles County
11 Fairgrounds. The Metro Goldwyn Mayer, Inc. Conejo Ranch
12 property is within the Los Angeles zone.

13 ~~(HH)~~

14 ~~(ic)~~ “Original photography” includes principal photography
15 and reshooting original footage.

16 ~~(IV)~~

17 ~~(id)~~ “Qualified expenditures relating to original photography
18 outside the Los Angeles zone” means amounts paid or incurred
19 during the applicable period for tangible personal property
20 purchased or leased and used or consumed outside the Los Angeles
21 zone and relating to original photography outside the Los Angeles
22 zone and qualified wages paid for services performed outside the
23 Los Angeles zone and relating to original photography outside the
24 Los Angeles zone.

25 ~~(E) Twenty-five~~

26 ~~(ii)~~ Five percent of the qualified expenditures relating to music
27 scoring and music track recording by musicians attributable to the
28 production of a qualified motion picture in California.

29 ~~(F) Twenty-five~~

30 ~~(iii)~~ Five percent of the qualified expenditures relating to
31 qualified visual effects attributable to the production of a qualified
32 motion picture in California.

33 (b) For purposes of this section:

34 (1) “Ancillary product” means any article for sale to the public
35 that contains a portion of, or any element of, the qualified motion
36 picture.

37 (2) “Budget” means an estimate of all expenses paid or incurred
38 during the production period of a qualified motion picture. It shall
39 be the same budget used by the qualified taxpayer and production
40 company for all qualified motion picture purposes.

1 (3) “Clip use” means a use of any portion of a motion picture,
2 other than the qualified motion picture, used in the qualified motion
3 picture.

4 (4) “Credit certificate” means the certificate issued by the
5 California Film Commission pursuant to subparagraph (C) of
6 paragraph (3) of subdivision (g).

7 (5) (A) “Employee fringe benefits” means the amount allowable
8 as a deduction under this part to the qualified taxpayer involved
9 in the production of the qualified motion picture, exclusive of any
10 amounts contributed by employees, for any year during the
11 production period with respect to any of the following:

12 (i) Employer contributions under any pension, profit-sharing,
13 annuity, or similar plan.

14 (ii) Employer-provided coverage under any accident or health
15 plan for employees.

16 (iii) The employer’s cost of life or disability insurance provided
17 to employees.

18 (B) Any amount treated as wages under clause (i) of
19 subparagraph (A) of paragraph (21) shall not be taken into account
20 under this paragraph.

21 (6) “Independent film” means a motion picture with a minimum
22 budget of one million dollars (\$1,000,000) that is produced by a
23 company that is not publicly traded and publicly traded companies
24 do not own, directly or indirectly, more than 25 percent of the
25 producing company.

26 (7) “Jobs ratio” means the amount of qualified wages paid to
27 qualified individuals divided by the amount of tax credit, *not*
28 *including any additional credit allowed pursuant to subparagraph*
29 *(D) of paragraph (4) of subdivision (a)*, as computed by the
30 California Film Commission.

31 (8) “Licensing” means any grant of rights to distribute the
32 qualified motion picture, in whole or in part.

33 (9) “New use” means any use of a motion picture in a medium
34 other than the medium for which it was initially created.

35 (10) “Pilot for a new television series” means the initial episode
36 produced for a proposed television series.

37 (11) (A) “Postproduction” means the final activities in a
38 qualified motion picture’s production, including editing, foley
39 recording, automatic dialogue replacement, sound editing, scoring,
40 music track recording by musicians and music editing, beginning

1 and end credits, negative cutting, negative processing and
2 duplication, the addition of sound and visual effects, sound mixing,
3 film-to-tape transfers, encoding, and color correction.

4 (B) “Postproduction” does not include the manufacture or
5 shipping of release prints or their equivalent.

6 (12) “Preproduction” means the process of preparation for actual
7 physical production which begins after a qualified motion picture
8 has received a firm agreement of financial commitment, or is
9 greenlit, with, for example, the establishment of a dedicated
10 production office, the hiring of key crew members, and includes,
11 but is not limited to, activities that include location scouting and
12 execution of contracts with vendors of equipment and stage space.

13 (13) “Principal photography” means the phase of production
14 during which the motion picture is actually shot, as distinguished
15 from preproduction and postproduction.

16 (14) “Production period” means the period beginning with
17 preproduction and ending upon completion of postproduction.

18 (15) “Qualified entity” means a personal service corporation as
19 defined in Section 269A(b)(1) of the Internal Revenue Code, a
20 payroll services corporation, or any entity receiving qualified wages
21 with respect to services performed by a qualified individual.

22 (16) “Qualified expenditures” means amounts paid or incurred
23 for tangible personal property purchased or leased, and used, within
24 this state in the production of a qualified motion picture and
25 payments, including qualified wages, for services performed within
26 this state in the production of a qualified motion picture.

27 (17) (A) “Qualified individual” means any individual who
28 performs services during the production period in an activity related
29 to the production of a qualified motion picture.

30 (B) “Qualified individual” shall not include either of the
31 following:

32 (i) Any individual related to the qualified taxpayer as described
33 in subparagraph (A), (B), or (C) of Section 51(i)(1) of the Internal
34 Revenue Code.

35 (ii) Any 5-percent owner, as defined in Section 416(i)(1)(B) of
36 the Internal Revenue Code, of the qualified taxpayer.

37 (18) (A) “Qualified motion picture” means a motion picture
38 that is produced for distribution to the general public, regardless
39 of medium, that is one of the following:

1 (i) A feature with a minimum production budget of one million
2 dollars (\$1,000,000).

3 (ii) A movie of the week or miniseries with a minimum
4 production budget of five hundred thousand dollars (\$500,000).

5 (iii) A new television series of episodes longer than 40 minutes
6 each of running time, exclusive of commercials, that is produced
7 in California, with a minimum production budget of one million
8 dollars (\$1,000,000) per episode.

9 (iv) An independent film.

10 (v) A television series that relocated to California.

11 (vi) A pilot for a new television series that is longer than 40
12 minutes of running time, exclusive of commercials, that is produced
13 in California, and with a minimum production budget of one
14 million dollars (\$1,000,000).

15 (B) To qualify as a “qualified motion picture,” all of the
16 following conditions shall be satisfied:

17 (i) At least 75 percent of the principal photography days occur
18 wholly in California or 75 percent of the production budget is
19 incurred for payment for services performed within the state and
20 the purchase or rental of property used within the state.

21 (ii) Production of the qualified motion picture is completed
22 within 30 months from the date on which the qualified taxpayer’s
23 application is approved by the California Film Commission. For
24 purposes of this section, a qualified motion picture is “completed”
25 when the process of postproduction has been finished.

26 (iii) The copyright for the motion picture is registered with the
27 United States Copyright Office pursuant to Title 17 of the United
28 States Code.

29 (iv) Principal photography of the qualified motion picture
30 commences after the date on which the application is approved by
31 the California Film Commission, but no later than 180 days after
32 the date of that approval unless death, disability, or disfigurement
33 of the director or of a principal cast member, an act of God,
34 including, but not limited to, fire, flood, earthquake, storm,
35 hurricane, or other natural disaster, terrorist activities, or
36 government sanction has directly prevented a production’s ability
37 to begin principal photography within the prescribed 180-day
38 commencement period.

39 (C) For the purposes of subparagraph (A), in computing the
40 total wages paid or incurred for the production of a qualified

1 motion picture, all amounts paid or incurred by all persons or
2 entities that share in the costs of the qualified motion picture shall
3 be aggregated.

4 (D) “Qualified motion picture” shall not include commercial
5 advertising, music videos, a motion picture produced for private
6 noncommercial use, such as weddings, graduations, or as part of
7 an educational course and made by students, a news program,
8 current events or public events program, talk show, game show,
9 sporting event or activity, awards show, telethon or other
10 production that solicits funds, reality television program, clip-based
11 programming if more than 50 percent of the content is comprised
12 of licensed footage, documentaries, variety programs, daytime
13 dramas, strip shows, one-half hour (air time) episodic television
14 shows, or any production that falls within the recordkeeping
15 requirements of Section 2257 of Title 18 of the United States Code.

16 (19) (A) “Qualified taxpayer” means a taxpayer who has paid
17 or incurred qualified expenditures, participated in the Career
18 Readiness requirement, and has been issued a credit certificate by
19 the California Film Commission pursuant to subdivision (g).

20 (B) (i) In the case of any pass-thru entity, the determination of
21 whether a taxpayer is a qualified taxpayer under this section shall
22 be made at the entity level and any credit under this section is not
23 allowed to the pass-thru entity, but shall be passed through to the
24 partners or shareholders in accordance with applicable provisions
25 of Part 10 (commencing with Section 17001) or Part 11
26 (commencing with Section 23001). For purposes of this paragraph,
27 “pass-thru entity” means any entity taxed as a partnership or “S”
28 corporation.

29 (ii) In the case of an “S” corporation, the credit allowed under
30 this section shall not be used by an “S” corporation as a credit
31 against a tax imposed under Chapter 4.5 (commencing with Section
32 23800) of Part 11 of Division 2.

33 (20) “Qualified visual effects” means visual effects where at
34 least 75 percent or a minimum of ten million dollars (\$10,000,000)
35 of the qualified expenditures for the visual effects is paid or
36 incurred in California.

37 (21) (A) “Qualified wages” means all of the following:

38 (i) Any wages subject to withholding under Division 6
39 (commencing with Section 13000) of the Unemployment Insurance
40 Code that were paid or incurred by any taxpayer involved in the

1 production of a qualified motion picture with respect to a qualified
2 individual for services performed on the qualified motion picture
3 production within this state.

4 (ii) The portion of any employee fringe benefits paid or incurred
5 by any taxpayer involved in the production of the qualified motion
6 picture that are properly allocable to qualified wage amounts
7 described in clauses (i), (iii), and (iv).

8 (iii) Any payments made to a qualified entity for services
9 performed in this state by qualified individuals within the meaning
10 of paragraph (17).

11 (iv) Remuneration paid to an independent contractor who is a
12 qualified individual for services performed within this state by that
13 qualified individual.

14 (B) “Qualified wages” shall not include any of the following:

15 (i) Expenses, including wages, related to new use, reuse, clip
16 use, licensing, secondary markets, or residual compensation, or
17 the creation of any ancillary product, including, but not limited to,
18 a soundtrack album, toy, game, trailer, or teaser.

19 (ii) Expenses, including wages, paid or incurred with respect to
20 acquisition, development, turnaround, or any rights thereto.

21 (iii) Expenses, including wages, related to financing, overhead,
22 marketing, promotion, or distribution of a qualified motion picture.

23 (iv) Expenses, including wages, paid per person per qualified
24 motion picture for writers, directors, music directors, music
25 composers, music supervisors, producers, and performers, other
26 than background actors with no scripted lines.

27 (22) “Residual compensation” means supplemental
28 compensation paid at the time that a motion picture is exhibited
29 through new use, reuse, clip use, or in secondary markets, as
30 distinguished from payments made during production.

31 (23) “Reuse” means any use of a qualified motion picture in the
32 same medium for which it was created, following the initial use
33 in that medium.

34 (24) “Secondary markets” means media in which a qualified
35 motion picture is exhibited following the initial media in which it
36 is exhibited.

37 (25) “Television series that relocated to California” means a
38 television series, without regard to episode length or initial media
39 exhibition, with a minimum production budget of one million
40 dollars (\$1,000,000) per episode, that filmed ~~no fewer than~~ its most

1 recent ~~two seasons~~ *season* outside of California or has filmed all
2 seasons outside of California and for which the taxpayer certifies
3 that the credit provided pursuant to this section is the primary
4 reason for relocating to California.

5 (26) “Visual effects” means the creation, alteration, or
6 enhancement of images that cannot be captured on a set or location
7 during live action photography and therefore is accomplished in
8 postproduction. It includes, but is not limited to, matte paintings,
9 animation, set extensions, computer-generated objects, characters
10 and environments, compositing (combining two or more elements
11 in a final image), and wire removals. “Visual effects” does not
12 include fully animated projects, whether created by traditional or
13 digital means.

14 (c) (1) Notwithstanding subdivision (i) of Section 23036, in
15 the case where the credit allowed by this section exceeds the
16 taxpayer’s tax liability computed under this part, a qualified
17 taxpayer may elect to assign any portion of the credit allowed
18 under this section to one or more affiliated corporations for each
19 taxable year in which the credit is allowed. For purposes of this
20 subdivision, “affiliated corporation” has the meaning provided in
21 subdivision (b) of Section 25110, as that section was amended by
22 Chapter 881 of the Statutes of 1993, as of the last day of the taxable
23 year in which the credit is allowed, except that “100 percent” is
24 substituted for “more than 50 percent” wherever it appears in the
25 section, and “voting common stock” is substituted for “voting
26 stock” wherever it appears in the section.

27 (2) The election provided in paragraph (1):

28 (A) May be based on any method selected by the qualified
29 taxpayer that originally receives the credit.

30 (B) Shall be irrevocable for the taxable year the credit is allowed,
31 once made.

32 (C) May be changed for any subsequent taxable year if the
33 election to make the assignment is expressly shown on each of the
34 returns of the qualified taxpayer and the qualified taxpayer’s
35 affiliated corporations that assign and receive the credits.

36 (D) Shall be reported to the Franchise Tax Board, in the form
37 and manner specified by the Franchise Tax Board, along with all
38 required information regarding the assignment of the credit,
39 including the corporation number, the federal employer

1 identification number, or other taxpayer identification number of
2 the assignee, and the amount of the credit assigned.

3 (3) (A) Notwithstanding any other law, a qualified taxpayer
4 may sell any credit allowed under this section that is attributable
5 to an independent film, as defined in paragraph (6) of subdivision
6 (b), to an unrelated party.

7 (B) The qualified taxpayer shall report to the Franchise Tax
8 Board prior to the sale of the credit, in the form and manner
9 specified by the Franchise Tax Board, all required information
10 regarding the purchase and sale of the credit, including the social
11 security or other taxpayer identification number of the unrelated
12 party to whom the credit has been sold, the face amount of the
13 credit sold, and the amount of consideration received by the
14 qualified taxpayer for the sale of the credit.

15 (4) In the case where the credit allowed under this section
16 exceeds the “tax,” the excess credit may be carried over to reduce
17 the “tax” in the following taxable year, and succeeding five taxable
18 years, if necessary, until the credit has been exhausted.

19 (5) A credit shall not be sold pursuant to this subdivision to
20 more than one taxpayer, nor may the credit be resold by the
21 unrelated party to another taxpayer or other party.

22 (6) A party that has been assigned or acquired tax credits under
23 this subdivision shall be subject to the requirements of this section.

24 (7) In no event may a qualified taxpayer assign or sell any tax
25 credit to the extent the tax credit allowed by this section is claimed
26 on any tax return of the qualified taxpayer.

27 (8) In the event that both the taxpayer originally allocated a
28 credit under this section by the California Film Commission and
29 a taxpayer to whom the credit has been sold both claim the same
30 amount of credit on their tax returns, the Franchise Tax Board may
31 disallow the credit of either taxpayer, so long as the statute of
32 limitations upon assessment remains open.

33 (9) Chapter 3.5 (commencing with Section 11340) of Part 1 of
34 Division 3 of Title 2 of the Government Code does not apply to
35 any standard, criterion, procedure, determination, rule, notice, or
36 guideline established or issued by the Franchise Tax Board
37 pursuant to this subdivision.

38 (10) Subdivision (i) of Section 23036 shall not apply to any
39 credit sold pursuant to this subdivision.

40 (11) For purposes of this subdivision:

1 (A) An affiliated corporation or corporations that are assigned
2 a credit pursuant to paragraph (1) shall be treated as a qualified
3 taxpayer pursuant to paragraph (1) of subdivision (a).

4 (B) The unrelated party or parties that purchase a credit pursuant
5 to paragraphs (3) to (10), inclusive, shall be treated as a qualified
6 taxpayer pursuant to paragraph (1) of subdivision (a).

7 (d) (1) No credit shall be allowed pursuant to this section unless
8 the qualified taxpayer provides the following to the California
9 Film Commission:

10 (A) Identification of each qualified individual.

11 (B) The specific start and end dates of production.

12 (C) The total wages paid.

13 (D) The total amount of qualified wages paid to qualified
14 individuals.

15 (E) The copyright registration number, as reflected on the
16 certificate of registration issued under the authority of Section 410
17 of Title 17 of the United States Code, relating to registration of
18 claim and issuance of certificate. The registration number shall be
19 provided on the return claiming the credit.

20 (F) The total amounts paid or incurred to purchase or lease
21 tangible personal property used in the production of a qualified
22 motion picture.

23 (G) Information to substantiate its qualified expenditures.

24 (H) Information required by the California Film Commission
25 under regulations promulgated pursuant to subdivision (g)
26 necessary to verify the amount of credit claimed.

27 (I) Provides documentation verifying completion of the Career
28 Readiness requirement.

29 (2) (A) Based on the information provided in paragraph (1),
30 the California Film Commission shall recompute the jobs ratio
31 previously computed in subdivision (g) and compare this
32 recomputed jobs ratio to the jobs ratio that the qualified taxpayer
33 previously listed on the application submitted pursuant to
34 subdivision (g). ~~If the California Film Commission determines~~
35 ~~that the jobs ratio has been reduced by more than 10 percent, the~~
36 ~~California Film Commission shall reduce the amount of credit~~
37 ~~allowed by an equal percentage, unless the qualified taxpayer~~
38 ~~demonstrates, and the California Film Commission determines,~~
39 ~~that reasonable cause exists for the jobs ratio reduction.~~

1 (B) (i) *If the California Film Commission determines that the*
2 *jobs ratio has been reduced by more than 10 percent for a qualified*
3 *motion picture other than an independent film, the California Film*
4 *Commission shall reduce the amount of credit allowed by an equal*
5 *percentage, unless the qualified taxpayer demonstrates, and the*
6 *California Film Commission determines, that reasonable cause*
7 *exists for the jobs ratio reduction.*

8 ~~(B)~~

9 (ii) *If the California Film Commission determines that the jobs*
10 *ratio has been reduced by more than 20 percent for a qualified*
11 *motion picture other than an independent film, the California Film*
12 *Commission shall not accept an application described in*
13 *subdivision (g) from that qualified taxpayer or any member of the*
14 *qualified taxpayer's controlled group for a period of not less than*
15 *one year from the date of that determination, unless the qualified*
16 *taxpayer demonstrates, and the California Film Commission*
17 *determines, that reasonable cause exists for the jobs ratio reduction.*

18 (C) *If the California Film Commission determines that the jobs*
19 *ratio has been reduced by more than 20 30 percent for an*
20 *independent film, the tax credit allocation to the independent film*
21 *shall be revoked unless the qualified taxpayer demonstrates, and*
22 *the California Film Commission determines, that reasonable cause*
23 *exists for the jobs ratio reduction California Film Commission*
24 *shall reduce the amount of credit allowed by an equal percentage,*
25 *plus 10 percent of the amount of credit that would otherwise have*
26 *been allowed, unless the qualified taxpayer demonstrates, and the*
27 *California Film Commission determines, that reasonable cause*
28 *exists for the jobs ratio reduction.*

29 ~~(D) Subject to subparagraph (D) of paragraph (4) of subdivision~~
30 ~~(a), the California Film Commission shall increase the applicable~~
31 ~~credit percentage by 5 percent, not to exceed a maximum of 25~~
32 ~~percent, if the qualified motion picture paid or incurred outside~~
33 ~~the Los Angeles zone the qualified expenditures relating to original~~
34 ~~photography outside the Los Angeles zone.~~

35 ~~(E)~~

36 (D) *For the purposes of this paragraph, "reasonable cause"*
37 *means unforeseen circumstances beyond the control of the qualified*
38 *taxpayer, such as, but not limited to, the cancellation of a television*
39 *series prior to the completion of the scheduled number of episodes*
40 *or other similar circumstances as determined by the California*

1 Film Commission in regulations to be adopted pursuant to
2 subdivision (e).

3 (e) (1) (A) Subject to the Administrative Procedure Act
4 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
5 Division 3 of Title 2 of the Government Code), the California Film
6 Commission shall adopt rules and regulations to implement a
7 Career Readiness requirement by which the California Film
8 Commission shall identify training and public service opportunities
9 that may include, but not be limited to, hiring interns, public service
10 announcements, and community outreach and may prescribe rules
11 and regulations to carry out the purposes of this section, including,
12 ~~subparagraph (E) of paragraph (2) of subdivision (d)~~ *subparagraph*
13 *(D) of paragraph (4) of subdivision (a)* and clause (iv) of
14 subparagraph (D) of paragraph (2) of subdivision (g), and including
15 any rules and regulations necessary to establish procedures,
16 processes, requirements, application fee structure, and rules
17 identified in or required to implement this section, including credit
18 and logo requirements *and credit allocation procedures over*
19 *multiple fiscal years where the qualified taxpayer is producing a*
20 *series of features that will be filmed concurrently.*

21 (B) Notwithstanding any other law, prior to preparing a notice
22 of proposed action pursuant to Section 11346.4 of the Government
23 Code and prior to making any revision to the proposed regulation
24 other than a change that is nonsubstantial or solely grammatical
25 in nature , the Governor's Office of Business and Economic
26 Development shall first approve the proposed regulation or
27 proposed change to a proposed regulation regarding allocating the
28 credit pursuant to subdivision (i), computing the jobs ratio as
29 described in subdivisions (d) and (g), and defining "reasonable
30 cause" pursuant to subparagraph (E) of paragraph (2) of subdivision
31 (d).

32 (2) (A) Implementation of this section for the 2015–16 fiscal
33 year is deemed an emergency and necessary for the immediate
34 preservation of the public peace, health, and safety, or general
35 welfare and, therefore, the California Film Commission is hereby
36 authorized to adopt emergency regulations to implement this
37 section during the 2015–16 fiscal year in accordance with the
38 rulemaking provisions of the Administrative Procedure Act
39 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
40 Division 3 of Title 2 of the Government Code).

1 (B) Nothing in this paragraph shall be construed to require the
2 Governor's Office of Business and Economic Development to
3 approve emergency regulations adopted pursuant to this paragraph.

4 (3) *The California Film Commission shall not be required to*
5 *prepare an economic impact analysis pursuant to the*
6 *Administrative Procedure Act (Chapter 3.5 (commencing with*
7 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*
8 *Code) with regard to any rules and regulations adopted pursuant*
9 *to this subdivision.*

10 (f) If the qualified taxpayer fails to provide the copyright
11 registration number as required in subparagraph (E) of paragraph
12 (1) of subdivision (d), the credit shall be disallowed and assessed
13 and collected under Section 19051 until the procedures are
14 satisfied.

15 (g) For purposes of this section, the California Film Commission
16 shall do the following:

17 (1) Subject to the requirements of subparagraphs (A) through
18 (E), inclusive, of paragraph (2), on or after ~~January~~ July 1, 2015,
19 and before July 1, 2016, in one or more allocation periods per
20 fiscal year, allocate tax credits to applicants.

21 (2) On or after July 1, 2016, and before July 1, ~~2019~~, 2020, in
22 two or more allocation periods per fiscal year, allocate tax credits
23 to applicants.

24 (A) Establish a procedure for applicants to file with the
25 California Film Commission a written application, on a form jointly
26 prescribed by the California Film Commission and the Franchise
27 Tax Board for the allocation of the tax credit. The application shall
28 include, but not be limited to, the following information:

29 (i) The budget for the motion picture production.

30 (ii) The number of production days.

31 (iii) A financing plan for the production.

32 (iv) The diversity of the workforce employed by the applicant,
33 including, but not limited to, the ethnic and racial makeup of the
34 individuals employed by the applicant during the production of
35 the qualified motion picture, to the extent possible.

36 (v) All members of a combined reporting group, if known at
37 the time of the application.

38 (vi) Financial information, if available, including, but not limited
39 to, the most recently produced balance sheets, annual statements
40 of profits and losses, audited or unaudited financial statements,

1 summary budget projections or results, or the functional equivalent
2 of these documents of a partnership or owner of a single member
3 limited liability company that is disregarded pursuant to Section
4 23038. The information provided pursuant to this clause shall be
5 confidential and shall not be subject to public disclosure.

6 (vii) The names of all partners in a partnership not publicly
7 traded or the names of all members of a limited liability company
8 classified as a partnership not publicly traded for California income
9 tax purposes that have a financial interest in the applicant's
10 qualified motion picture. The information provided pursuant to
11 this clause shall be confidential and shall not be subject to public
12 disclosure.

13 (viii) The amount of qualified wages the applicant expects to
14 pay to qualified individuals.

15 (ix) ~~The amount of tax credit requested not to exceed the~~
16 ~~applicable credit percentage~~ *the applicant computes the qualified*
17 *motion picture will receive, applying the applicable credit*
18 *percentages* described in paragraph (4) of subdivision (a).

19 (x) A statement establishing that the tax credit described in this
20 section is a significant factor in the applicant's choice of location
21 for the qualified motion picture. The statement shall include
22 information about whether the qualified motion picture is at risk
23 of not being filmed or specify the jurisdiction or jurisdictions in
24 which the qualified motion picture will be located in the absence
25 of the tax credit. The statement shall be signed by an officer or
26 executive of the applicant.

27 (xi) Any other information deemed relevant by the California
28 Film Commission or the Franchise Tax Board.

29 (B) Establish criteria, consistent with the requirements of this
30 section, for allocating tax credits.

31 (C) Determine and designate applicants who meet the
32 requirements of this section.

33 (D) (i) For purposes of allocating the credit amounts subject to
34 the categories described in subdivision (i) in any fiscal year, the
35 California Film Commission shall do all of the following:

36 (ii) For each allocation date and for each category, list each
37 applicant from highest to lowest according to the jobs ratio as
38 computed by the California Film Commission.

1 (iii) Subject to the applicable credit percentage, allocate the
2 credit to each applicant according to the highest jobs ratio, working
3 down the list, until the credit amount is exhausted.

4 (iv) Pursuant to regulations adopted pursuant to subdivision (e),
5 the California Film Commission may increase the jobs ratio by up
6 to 25 percent if a qualified motion picture increases economic
7 activity in California according to criteria developed by the
8 California Film Commission that would include, but not be limited
9 to, such factors as, the amount of the production and postproduction
10 spending in California, the utilization of production facilities in
11 California, and other criteria measuring economic impact in
12 California as determined by the Film Commission.

13 (v) Notwithstanding any other provision, any ~~new~~ television
14 series, relocating television series, or any new television series
15 based on a pilot for a new television series that has been approved
16 and issued a credit allocation by the California Film Commission
17 ~~either~~ under this section, Section 17053.95, 17053.85, or 23685
18 shall be issued a credit for each subsequent year, ~~in an amount~~
19 ~~equal to the prior credit amount~~, for the life of that ~~qualified motion~~
20 ~~picture~~ *television series* whenever credits are allocated within a
21 fiscal year.

22 (E) Subject to the annual cap and the allocation credit amounts
23 based on categories described in subdivision (i), allocate an
24 aggregate amount of credits under this section and Section
25 17053.95, and allocate any carryover of unallocated credits from
26 prior years and the amount of any credits reduced pursuant to
27 paragraph (2) of subdivision (d).

28 (3) Certify tax credits allocated to qualified taxpayers.

29 (A) Establish a verification procedure for the amount of qualified
30 expenditures paid or incurred by the applicant, including, but not
31 limited to, updates to the information in subparagraph (A) of
32 paragraph (2) of subdivision (g).

33 (B) Establish audit requirements that must be satisfied before
34 a credit certificate may be issued by the California Film
35 Commission.

36 (C) (i) Establish a procedure for a qualified taxpayer to report
37 to the California Film Commission, prior to the issuance of a credit
38 certificate, the following information:

39 (I) If readily available, a list of the states, provinces, or other
40 jurisdictions in which any member of the applicant's combined

1 reporting group in the same business unit as the qualified taxpayer
2 that, in the preceding calendar year, has produced a qualified
3 motion picture intended for release in the United States market.
4 For purposes of this clause, “qualified motion picture” shall not
5 include any episodes of a television series that were complete or
6 in production prior to July 1, 2016.

7 (II) Whether a qualified motion picture described in subclause
8 (I) was awarded any financial incentive by the state, province, or
9 other jurisdiction that was predicated on the performance of
10 primary principal photography or postproduction in that location.

11 (ii) The California Film Commission may provide that the report
12 required by this subparagraph be filed in a single report provided
13 on a calendar year basis for those qualified taxpayers that receive
14 multiple credit certificates in a calendar year.

15 (D) Issue a credit certificate to a qualified taxpayer upon
16 completion of the qualified motion picture reflecting the credit
17 amount allocated after qualified expenditures have been verified
18 and the jobs ratio computed under this section. The amount of
19 credit shown in the credit certificate shall not exceed the amount
20 of credit allocated to that qualified taxpayer pursuant to this section.

21 (4) Obtain, when possible, the following information from
22 applicants that do not receive an allocation of credit:

23 (A) Whether the qualified motion picture that was the subject
24 of the application was completed.

25 (B) If completed, in which state or foreign jurisdiction was the
26 primary principal photography completed.

27 (C) Whether the applicant received any financial incentives
28 from the state or foreign jurisdiction to make the qualified motion
29 picture in that location.

30 (5) Provide the Legislative Analyst’s Office, upon request, any
31 or all application materials or any other materials received from,
32 or submitted by, the applicants, in electronic format when available,
33 including, but not limited to, information provided pursuant to
34 clauses (i) to (xi) inclusive, of subparagraph (A) of paragraph (2).

35 (6) The information provided to the California Film Commission
36 pursuant to this section shall constitute confidential tax information
37 for purposes of Article 2 (commencing with Section 19542) of
38 Chapter 7 of Part 10.2.

39 (h) (1) The California Film Commission shall annually provide
40 the Legislative Analyst’s Office, the Franchise Tax Board, and the

1 board with a list of qualified taxpayers and the tax credit amounts
2 allocated to each qualified taxpayer by the California Film
3 Commission. The list shall include the names and taxpayer
4 identification numbers, including taxpayer identification numbers
5 of each partner or shareholder, as applicable, of the qualified
6 taxpayer.

7 (2) (A) Notwithstanding paragraph (6) of subdivision (g), the
8 California Film Commission shall annually post on its Internet
9 Web site and make available for public release the following:

10 (i) A table which includes all of the following information: a
11 list of qualified taxpayers and the tax credit amounts allocated to
12 each qualified taxpayer by the California Film Commission, the
13 number of production days in California the qualified taxpayer
14 represented in its application would occur, the number of California
15 jobs that the qualified taxpayer represented in its application would
16 be directly created by the production, and the total amount of
17 qualified expenditures expected to be spent by the production.

18 (ii) A narrative staff summary describing the production of the
19 qualified taxpayer as well as background information regarding
20 the qualified taxpayer contained in the qualified taxpayer's
21 application for the credit.

22 (B) Nothing in this subdivision shall be construed to make the
23 information submitted by an applicant for a tax credit under this
24 section a public record.

25 (3) The California Film Commission shall provide each city
26 and county in California with an instructional guide that includes,
27 but is not limited to, a review of best practices for facilitating
28 motion picture production in local jurisdictions, resources on
29 hosting and encouraging motion picture production, and the
30 California Film Commissions' Model Film Ordinance. The
31 California Film Commission shall maintain on its Internet Web
32 site a list of initiatives by locality that encourage motion picture
33 production in regions across the state. The list shall be distributed
34 to each approved applicant for the program to highlight local
35 jurisdictions that offer incentives to facilitate film production.

36 (i) (1) (A) The aggregate amount of credits that may be
37 allocated for ~~any~~ a fiscal year pursuant to this section and Section
38 17053.95 ~~shall be an amount equal to the sum of all of~~ *is the*
39 *applicable amount described in the following, plus any amount*
40 *described in subparagraph (B), (C), or (D):*

1 ~~(A) Two hundred million dollars (\$200,000,000) in credits for~~
2 ~~the 2015–16 fiscal year.~~

3 *(i) Two hundred thirty million dollars (\$230,000,000) in credits*
4 *for the 2015–16 fiscal year.*

5 ~~(B) Four hundred million dollars (\$400,000,000)~~

6 *(ii) Three hundred thirty million dollars (\$330,000,000) in*
7 *credits for the 2016–17 fiscal year and each fiscal year thereafter,*
8 *through and including the 2018–19 2019–20 fiscal year.*

9 ~~(C)~~

10 *(B) The unused allocation credit amount, if any, for the*
11 *preceding fiscal year.*

12 ~~(D)~~

13 *(C) The amount of previously allocated credits not certified.*

14 ~~(E)~~

15 *(D) The amount of any credits reduced pursuant to paragraph*
16 *(2) of subdivision (d).*

17 *(2) (A) Notwithstanding the foregoing, the California Film*
18 *Commission shall allocate the credit amounts subject to the*
19 *following categories:*

20 *(i) Independent films shall be allocated 5 percent of the amount*
21 *specified in paragraph (1).*

22 *(ii) Features shall be allocated 35 percent of the amount specified*
23 *in paragraph (1).*

24 *(iii) A relocating television series shall be allocated 20 percent*
25 *of the amount specified in paragraph (1).*

26 *(iv) A new television series, pilots for a new television series,*
27 *movies of the week, miniseries, and recurring television series*
28 *shall be allocated 40 percent of the amount specified in paragraph*
29 *(1).*

30 ~~(B) (i) Within 60 days after the allocation period, any unused~~
31 ~~amount within a category or categories shall be apportioned to~~
32 ~~another category or categories with a higher demand.~~

33 ~~(ii) Notwithstanding the foregoing, at the end of the fiscal year,~~
34 ~~any unused amount within the allocation described in clause (iii)~~
35 ~~of subparagraph (A) shall be reallocated to the allocation described~~
36 ~~in clause (iv) of subparagraph (A).~~

37 *(B) Within 60 days after the allocation period, any unused*
38 *amount within a category or categories shall be first reallocated*
39 *to the category described in clause (iv) of subparagraph (A) and,*
40 *if any unused amount remains, reallocated to another category or*

1 *categories with a higher demand as determined by the California*
2 *Film Commission.*

3 (C) Notwithstanding the foregoing, the California Film
4 Commission may increase or decrease an allocation amount in
5 subparagraph (A) by 5 percent, if necessary, due to the jobs ratio,
6 the number of applications, or the allocation credit amounts
7 available by category compared to demand.

8 (D) With respect to a relocating television series issued a credit
9 in a subsequent year pursuant to clause (v) of subparagraph (D)
10 of paragraph (2) of subdivision (g), that subsequent credit amount
11 shall be ~~paid~~ *allowed* from the allocation amount described in
12 clause (iv) of subparagraph (A).

13 (3) Any act that reduces the amount that may be allocated
14 pursuant to paragraph (1) constitutes a change in state taxes for
15 the purpose of increasing revenues within the meaning of Section
16 3 of Article XIII A of the California Constitution and may be
17 passed by not less than two-thirds of all Members elected to each
18 of the two houses of the Legislature.

19 (j) The California Film Commission shall have the authority to
20 allocate tax credits in accordance with this section and in
21 accordance with any regulations prescribed pursuant to subdivision
22 (e) upon adoption.

23 ~~SEC. 10.~~

24 *SEC. 8.* The Legislature finds and declares that Sections 5 and
25 7 of this act impose a limitation on the public's right of access to
26 the meetings of public bodies or the writings of public officials
27 and agencies within the meaning of Section 3 of Article I of the
28 California Constitution. Pursuant to that constitutional provision,
29 the Legislature makes the following findings to demonstrate the
30 interest protected by this limitation and the need for protecting
31 that interest:

32 In order to allow the California Film Commission to fully
33 accomplish its goals, it is imperative to protect the interests of
34 those persons submitting information to the California Film
35 Commission to ensure that any personal or sensitive business
36 information that this act requires those persons to submit is
37 protected as confidential information.

38 ~~SEC. 11.~~

39 *SEC. 9.* The provisions of this act are severable. If any
40 provision of this act or its application is held invalid, that invalidity

1 shall not affect other provisions or applications that can be given
2 effect without the invalid provision or application *and the*
3 *Legislature shall determine the remedy for that invalidity.*

4 ~~SEC. 12.~~

5 *SEC. 10.* Section ~~7.5~~ 6.5 of this bill incorporates amendments
6 to Section 23036 of the Revenue and Taxation Code proposed by
7 both this bill and Assembly Bill 2754. It shall only become
8 operative if (1) both bills are enacted and become effective on or
9 before January 1, 2015, but this bill becomes operative first, (2)
10 each bill amends Section 23036 of the Revenue and Taxation Code,
11 and (3) this bill is enacted after Assembly Bill 2754, in which case
12 Section 23036 of the Revenue and Taxation Code, as amended by
13 Section ~~7~~ 6 of this bill, shall remain operative only until the
14 operative date of Assembly Bill 2754, at which time Section ~~7.5~~
15 6.5 of this bill shall become operative.

16 ~~SEC. 13.~~

17 *SEC. 11.* This act provides for a tax levy within the meaning
18 of Article IV of the Constitution and shall go into immediate effect.